

# EMERGENCY POWERS BILL, 1954.

## EXPLANATORY NOTE.

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THE object of this Bill is to provide that if it appears to the Governor that from any cause the supply or provision of essential services or essential commodities is or is likely to be interrupted or dislocated or becomes less than is sufficient for the reasonable requirements of the community the Governor, the Electricity Commission of New South Wales and the Commissioner for Government Transport may exercise the powers conferred on them by the Bill.

90736 —(2)

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1954.

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## A B I L L

To make provision with respect to the protection of the community in the event of the interruption or dislocation of the supply or provision of essential services or essential commodities; to confer certain powers on the Electricity Commission of New South Wales and the Commissioner for Government Transport; and for purposes connected therewith.

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of  
5 the same, as follows:—

**1.** (1) This Act may be cited as the "Emergency Powers Act, 1954." Short title and commencement.

~~29735~~ —(2)

(2)

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(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act shall bind the Crown.

Act to bind  
Crown.  
cf. Act No.  
19, 1949,  
s. 2.

5 3. In this Act unless the context otherwise indicates or requires—

Definitions.  
cf. *Ibid.*  
s. 3.

“Area” means a city, municipality or shire constituted under the Local Government Act, 1919, as amended by subsequent Acts.

10 “Essential commodity” means any commodity which the Governor by proclamation published in the Gazette declares to be an essential commodity.

“Essential services” means any of the following services, namely—

15 (a) transport,

(b) light,

(c) power,

20 (d) any service which the Governor by proclamation published in the Gazette declares to be an essential service,

supplied or provided to the public by any person whomsoever.

“Person” includes a trade union.

25 “Regulations” means regulations made under this Act.

“Strike” has the same meaning as in the Industrial Arbitration Act, 1940-1954.

30 “Trade union” means trade union registered under the Trade Union Act, 1881-1936, and includes a branch so registered.

4. (1) Whenever it appears to the Governor that from any cause the supply or provision of essential services or essential commodities is or is likely to be interrupted or dislocated or become less than is sufficient for the reasonable requirements of the community the Governor may

Proclama-  
tion as to  
emergency.  
cf. *Ibid.*  
s. 4.

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may from time to time exercise all or any of the powers conferred on him by or under this Act and do and perform all such acts, matters and things as are necessary or expedient for carrying into effect the purposes of this  
5 Act.

(2) The Governor may from time to time by proclamation declare that on and after the date of the publication of the proclamation or a later date specified therein the provisions of section five of this Act shall  
10 have effect.

5. (1) So long as any such proclamation remains unrevoked the Governor may make such regulations as he thinks fit for or with respect to—

Regulations,  
cf. Act No.  
19, 1949,  
s. 5.

- 15 (a) the maintenance, operation, control and co-ordination of essential services;
- (b) regulating the production, acquisition, supply, provision and distribution of essential services and essential commodities;
- 20 (c) regulating or prohibiting the use or consumption of essential services and essential commodities;
- (d) authorising the taking of possession or control and the disposal or use of any property, undertaking, goods, vehicles, articles or things of any  
25 kind;
- (e) requiring persons to place their services and their property at the disposal of the State as may appear to be necessary or expedient for securing the maintenance, supply or provision  
30 of essential services and essential commodities;
- (f) any other matter which the Governor deems necessary or expedient for the purposes of protecting life or property;

(c)

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- (g) the appointment of the council of an area or any statutory body, person or body of persons to exercise such functions as may be prescribed for the purposes of this Act or the regulations;
- 5 (h) the conferring or imposing upon any such council, statutory body, person or body of persons so appointed such powers and duties as appear necessary or expedient to carry into effect the purposes of this Act or the regulations;
- 10 (i) requiring any person to disclose any information in his possession as to any prescribed matter;
- (j) authorising the entry upon or search of any premises;
- 15 (k) prescribing generally all such matters or things as are necessary or expedient to be prescribed for or incidental to the carrying into effect of the purposes of this Act or the regulations.

(2) So long as any such proclamation remains  
20 unrevoked and without limiting the generality of the provisions of subsection one of this section the Governor may make such regulations as he thinks fit for or with respect to—

- 25 (a) prohibiting a trade union which, by some or all of its members, is taking part in a strike from making or promising to make any payment for the purpose of assisting or encouraging, directly or indirectly, the continuance of any strike;
- 30 (b) prohibiting any of the following trade unions or persons, that is to say—
  - (i) any trade union which, by some or all of its members, is taking part in a strike;
  - 35 (ii) a member of the committee of management of any such trade union as is referred to in subparagraph (i);
  - (iii) a member, officer or employee of any such trade union as is referred to in subparagraph (i); or
  - (iv)

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- 5 (iv) a person acting on behalf of, or in the interests of, any such trade union as is referred to in subparagraph (i),  
 from receiving a payment or benefit from any person for the purpose of assisting or encouraging, directly or indirectly, the continuance of any strike;
- 10 (c) prohibiting any trade union (not being a trade union which by some or all of its members is taking part in a strike) from making or promising to make a payment to or for the benefit of—

  - 15 (i) any trade union which, by some or all of its members, is taking part in a strike;
  - (ii) a member of the committee of management of any such trade union as is referred to in subparagraph (i);
  - 20 (iii) a member, officer or employee of any such trade union as is referred to in subparagraph (i); or
  - (iv) a person acting on behalf of, or in the interests of, any such trade union as is referred to in subparagraph (i),
- 25 for the purpose of assisting or encouraging, directly or indirectly, the continuance of any strike;
- 30 (d) conferring jurisdiction on the Industrial Commission of New South Wales to make such orders for injunctions as it thinks necessary for the purpose of ensuring compliance with the provisions of any regulation made under this subsection, and providing that the jurisdiction so conferred may be exercised by a single
- 35 member of that Commission.

(3) Without prejudice to the generality of the provisions of subsection one of this section the regulations may authorise the Minister, the council of an area, any

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any statutory body, person or body of persons to provide, operate, control, regulate and direct any essential services (whether by way of addition to, continuation or modification of, or substitution for any essential  
5 service theretofore supplied or provided).

(4) The regulations—

- (a) may be made so as to apply to or have operation throughout the whole or any part of New South Wales or throughout the whole or any  
10 part of any area;
- (b) may be made so as to operate for any period or periods or for any time or times or for any occasion or occasions specified therein;
- (c) may be of general operation or of specially limited operation according to any specified  
15 times, places, circumstances, conditions or restrictions.

(5) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of such publication or  
20 from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then  
25 within fourteen sitting days after the commencement of the next session.

Publication  
of  
regulations.  
cf. Act No.  
19, 1949,  
s. 5 (4).

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen  
30 sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

(6) A copy of the regulations shall be posted to each Member of the Legislative Assembly and to each Member of the Legislative Council as soon as may be after the publication thereof.

(7)

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(7) Every regulation shall (unless it sooner expires or is revoked) continue in operation until the proclamation under the authority of which it was made is revoked; but the expiration or revocation of any such regulation shall not be deemed to have affected the previous operation thereof or the validity of any action taken thereunder or to affect any penalty, forfeiture or punishment incurred in respect of any offence committed against such regulation or affect any investigation, legal proceeding or remedy in respect of any such penalty, forfeiture or punishment; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if such regulation had not expired or had not been revoked.

Continuation of operation of regulations. cf. Act No. 19, 1949, s. 5(6).

(8) No regulation made under this Act shall be deemed to be invalid on the ground that it delegates to or confers on the Governor, the Minister, the council of an area, any statutory body, person or body of persons any discretionary authority.

6. (1) So long as a proclamation under section four of this Act remains unrevoked the Electricity Commission of New South Wales and the Commissioner for Government Transport may—

Power of dismissal, etc.

- (a) dismiss any servant of that Commission or any officer or employee in any branch of the service of that Commissioner, as the case may be, who is taking part in a strike without notifying the servant, officer or employee in writing of the nature of the misconduct charged or of the breach of regulation, by-law, rule or direction alleged to have been committed;
- (b) terminate the employment of any servant of that Commission or of any officer or employee in any branch of the service of that Commissioner, as the case may be, on giving the servant, officer or employee one day's notice in lieu of any longer period of notice of termination of employment



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employment fixed expressly or impliedly by any award, industrial agreement or contract of employment.

(2) So long as a proclamation under section four  
5 of this Act remains unrevoked the Electricity Commission of New South Wales and the Commissioner for Government Transport shall not be liable to pay any servant of that Commission or any officer or employee in any branch of the service of that Commissioner, as the  
10 case may be, for any period during which—

- (a) the servant, officer or employee, as the case may be, has not, by reason or in consequence of any strike, performed his usual duties; and
- 15 (b) reasonably suitable other work has not been found for the servant, officer or employee, as the case may be.

Subject to the foregoing provisions of this subsection any period during which a servant, officer or employee is stood down pursuant to this subsection shall not be  
20 considered to be a period of absence from duty.

Any liability from which the Electricity Commission of New South Wales, or the Commissioner for Government Transport, is exempted by this subsection shall not be revived by the revocation of any such proclamation or  
25 the expiry of this Act.

(3) Any servant of the Electricity Commission of New South Wales and any officer or employee in any branch of the service of the Commissioner for Government Transport who is dismissed and who pursuant to  
30 the provisions of paragraph (a) of subsection one of this section is not notified in writing of the nature of the misconduct charged or of the breach of regulation, by-law, rule or direction alleged to have been committed shall have no right of appeal to the Appeal Board established under Division 3 of Part VI of the Electricity  
35 Commission Act, 1950-1954, or Division 3 of Part XI of the Transport Act, 1930-1953.

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- 7.** Any proclamation under this Act—
- (a) may be amended, varied or revoked by a later proclamation; and
- (b) shall be judicially noticed.
- 8.** This Act and the regulations shall have effect notwithstanding anything, whether express or implied, in any other Act or in any law, proclamation or regulation or in any judgment, award or order of any court or tribunal or in any contract or agreement whether oral or written or in any deed, document, security or writing whatsoever.
- 9.** All powers given by or under this Act and the regulations shall be in aid of and not in derogation from any other powers exercisable apart from this Act.
- 10.** Where any acts have been done before the commencement of any of the regulations, and by virtue of those regulations the acts would have been valid and lawful if the regulations had been in force when they were done, the acts shall be deemed to have been validly done under the authority of the regulations.
- 11.** No action, claim or demand whatsoever shall lie or be made or allowed by or in favour of any person whomsoever against Her Majesty or any responsible Minister of the Crown or any officer or person acting in the execution of this Act or any proclamation or regulation for or in respect of any damage, loss or injury sustained or alleged to be sustained by reason of the passing of this Act or of its operation, or of anything done or purporting to be done under this Act or any proclamation or regulation.
- Nothing in this section or the regulations contained shall operate to prejudice or affect any right which, if this section had not been enacted, a person would have had to recover damages, take any suit or proceeding, or receive any payment or compensation in respect of any personal injury sustained by him.

Proclamation.  
cf. Act No.  
19, 1949, s. 6.

Effect of  
Act.  
cf. *Ibid.*  
s. 7.

Powers to  
be in aid  
of other  
powers.  
cf. *Ibid.*  
s. 8.

Validation  
of acts  
done in  
anticipa-  
tion of  
emergency  
regulations.  
cf. *Ibid.*  
s. 9.

Exemption  
from  
liability  
of Crown,  
etc.  
cf. *Ibid.*  
s. 10.

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**12.** (1) Any expenditure incurred by or on behalf of the Crown in the carrying out of the provisions of this Act and the regulations shall be paid out of moneys provided by Parliament.

Finance.  
cf. Act  
No. 19, 1949,  
s. 11.

5 (2) The Colonial Treasurer may from moneys provided by Parliament for the purpose make grants or advances to the council of an area or any statutory body, person or body of persons for or towards meeting the expenditure incurred by such council, statutory body,  
10 person or body of persons in the exercise of any powers, authorities, duties or functions conferred or imposed on any such council, statutory body, person or body of persons by the regulations.

No such grant or advance shall be made by the Colonial  
15 Treasurer except upon the recommendation of the Minister and every such grant or advance shall be made upon such terms and subject to such conditions as the Minister may determine.

**13.** Any person who contravenes or fails to comply  
20 with any provision of the regulations or any order, direction or requirement made or given by or under the regulations shall be guilty of an offence against this Act and shall be liable—

Offences.  
cf. *Ibid.*  
s. 12.

25 (a) if a body corporate or a trade union—to a penalty not exceeding five hundred pounds;

(b) if any other person—to a penalty not exceeding two hundred pounds or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment.

30 Where a person convicted of an offence against this Act is a body corporate or a trade union, every person who at the time of the commission of the offence, was a director or officer of the body corporate or a member of the committee of management of the trade union or  
35 an officer thereof shall be deemed to have committed the like offence, and be liable to the pecuniary penalty or imprisonment or both provided by this section in the case of

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of such an offence by a person other than a body corporate or trade union accordingly, unless he proves that the offence was committed without his knowledge, or that he used all due diligence to prevent the commission of  
5 the offence.

**14.** (1) All proceedings for offences against this Act, other than the offences referred to in subsection two of this section, shall be disposed of summarily before a court of petty sessions holden before a stipendiary magistrate sitting alone. Proceedings for offences. cf. Act No. 19, 1949, s. 13.

(2) All proceedings against trade unions for offences against this Act under regulations made under subsection two of section five of this Act shall be disposed of before the Industrial Commission of New South Wales.

**15** (3) The provisions of sections one hundred and thirteen and one hundred and fourteen of the Industrial Arbitration Act, 1940-1954, apply to and in respect of a penalty imposed on a trade union by the Industrial Commission of New South Wales pursuant to this Act.

**20** **15.** The power to make regulations conferred by section one hundred and thirty of the Industrial Arbitration Act, 1940-1954, shall include power to make regulations regulating the procedure to be followed in proceedings before, and in enforcing convictions and  
**25** orders made by, the Industrial Commission of New South Wales under this Act. Procedure before Industrial Commission.

**16.** This Act shall expire upon a date to be appointed by the Governor and notified by proclamation published in the Gazette. Expiration. cf. *Ibid.* s. 14.

