

REVISED

C-083  
Opposition

## LEGISLATIVE COUNCIL

### Electricity Supply Bill 1995

#### First Print

Amendments to be moved in Committee

- 1 Page 39. After line 21, insert:

#### **Division 3 Licence Compliance Advisory Board**

##### **86 Establishment of Board**

- (1) The Minister is to establish a Licence Compliance Advisory Board.
- (2) The Board is to consist of 4 members, comprising:
  - (a) one member nominated by the Nature Conservation Council, and
  - (b) one member nominated by the Australian Consumers Association, and
  - (c) 2 members representative of the Minister for Energy.
- (3) The constitution and procedure of the Board are to be as prescribed by the regulations.

##### **87 Functions of Board**

The functions of the Licence Compliance Advisory Board are to monitor, and report to the Minister on, the extent to which electricity distributors and retail suppliers comply, or fail to comply, with the conditions imposed on the licences held by them.

##### **88 Annual reports**

- (1) As soon as practicable after 30 June (but on or before 31 October) in each year, the Licence Compliance Advisory Board must prepare and forward to the Minister a report on the extent to which electricity distributors and retail suppliers have complied, or failed to comply, with the conditions imposed on the licences held by them during the 12 months ending on 30 June in that year.





- 11-DEC-1995 15:45 FROM PARLIAMENTARY COUNCIL TO THE HOUSE OF COMMONS
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- (2) The Minister must lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

2 Page 56, Schedule 2, lines 4-7. Omit all words on those lines, insert instead:

- (4) Without limitation, the Minister must impose the following conditions on each retail supplier's licence:
- (a) a condition requiring the holder of the licence to develop strategies of the kind referred to in subsection (5),
  - (b) a condition requiring the auditing by the Environment Protection Authority, at intervals of no more than 3 years, of effectiveness of the strategies referred to in paragraph (a),
  - (c) a condition requiring the holder of the licence to develop 1, 3 and 5 year plans for:
    - (i) energy efficiency and demand management strategies, and
    - (ii) strategies for purchasing energy from sustainable sources, including consideration of cogeneration, purchasing of renewable energy, buy-back schemes from grid-connected solar cells on buildings and remote area power systems,

3 Page 56, Schedule 2. After line 20, insert:

- (5) The strategies referred to in subclause (4) (a):
- (a) must be based on the principle of achieving the reduction of greenhouse gas emissions, from electricity supplied to customers in New South Wales, as the electricity sector's contribution to achieving the target of reducing greenhouse gas emissions, as agreed in the National Greenhouse Response Strategy 1992 and the InterGovernmental Agreement on the Environment, and
  - (b) must be arrived at by negotiation with the Minister, and must include independent verification of emissions.



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- (6) A report on each audit prepared by the Environment Protection Authority as referred to in subclause (4) (b):
- (a) must be made publicly available at the offices of the Environment Protection Authority, and
  - (b) must be sent to the Licence Compliance Advisory Board, and
  - (c) must be tabled in each House of Parliament.
- (7) The Minister must review the conditions referred to in subclause (4) (a), (b) and (c) at the end of the period of 3 years after the conditions are imposed in order to assess the environmental performances of the holder of the licence and the environmental consequences of its work and activities.
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LEGISLATIVE COUNCIL

Electricity Supply Bill 1995

First Print

Amendments to be moved in Committee

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- 1 Page 25, clause 49, line 4. Omit "out, and", insert instead "out".
- 2 Page 25, clause 49, lines 5 and 6. Omit all words on those lines.
- 3 Page 36, clause 78, lines 14 and 15. Omit "(within the meaning of the *Independent Pricing and Regulatory Tribunal Act 1992*)", insert instead "(being a regime that conforms to the principles set out in Clause 6 (4) of the Competition Principles Agreement between the Commonwealth, the States and the Territories that was entered into, for and on behalf of New South Wales, on 11 April 1995)".
- 4 Page 39. After line 21, insert:

**Division 3 Licence Compliance Advisory Board**

**86 Establishment of Board**

- (1) The Minister is to establish a Licence Compliance Advisory Board.
- (2) The Board is to consist of 4 members, comprising:
  - (a) one member representative of the Minister administering the *Protection of the Environment Administration Act 1991*, and
  - (b) one member representative of the Minister for Fair Trading, and
  - (c) 2 members representative of the Minister for Energy.
- (3) The constitution and procedure of the Board are to be as prescribed by the regulations.

**87 Functions of Board**

- (1) The functions of the Licence Compliance Advisory Board are to monitor, and report to the Minister on, the extent to which electricity distributors and retail suppliers comply, or fail to comply, with the conditions imposed on the





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licences held by them.

- (2) For the purpose of enabling the Board to exercise its functions, the Minister must furnish the Board with such information in the possession of the Minister as the Board may request in relation to the compliance by electricity distributors and retail suppliers with the conditions imposed on the licences held by them.

#### **88 Annual reports**

- (1) As soon as practicable after 30 June (but on or before 31 October) in each year, the Licence Compliance Advisory Board must prepare and forward to the Minister a report on the extent to which electricity distributors and retail suppliers have complied, or failed to comply, with the conditions imposed on the licences held by them during the 12 months ending on 30 June in that year.
- (2) The Minister must lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

5 Page 41, clause 89. After line 15, insert:

- (3) Subject to the regulations, the Minister may not make an order under this section unless:
- (a) notice of the proposal to make the order has been published in a daily newspaper circulating throughout New South Wales, and
  - (b) a report on any submissions received with respect to the proposed order has been prepared.
- (4) The notice referred to in subsection (3) (a) must indicate:
- (a) the nature of the proposed order, and
  - (b) where submissions on the proposed order should be lodged, and
  - (c) the time (being not less than 21 days from the date on which the notice is published) within which any such submissions should be lodged, and
  - (d) such other matters as may be prescribed by the regulations.
- (5) The report referred to in subsection (3) (b):
- (a) must summarise the substance of the submissions received by the Minister in connection with the proposed order, and
  - (b) must contain such other information as may be prescribed by the regulations, and
  - (c) must be kept available at the head office of the Department of Energy for inspection by members of the public, free of charge, during normal office hours.

6 Page 54, Schedule 2. After line 7, insert:

- (4) The Minister must cause a report summarising the substance of any submissions received with respect to an application for a licence to be



prepared.

(5) The report:

- (a) must indicate the Minister's decision with respect to the application, and
- (b) must contain such other information as may be prescribed by the regulations, and
- (c) must be kept available at the head office of the Department of Energy for inspection by members of the public, free of charge, during normal office hours.

7 Page 56, Schedule 2, lines 4 and 5. Omit all words on those lines, insert instead:

(4) Without limitation, the Minister must impose the following conditions on each retail supplier's licence:

8 Page 56, Schedule 2, lines 13 and 14. Omit all words on those lines, insert instead:

- (ii) the carbon dioxide emissions arising from the production of electricity supplied by it, as measured in accordance with a methodology approved by the Minister after consultation with the Environment Protection Authority,

9 Page 56, Schedule 2. After line 20, insert:

(5) Without limitation, the Minister must impose the following conditions on each electricity distributor's licence:

- (a) a condition requiring the holder of the licence, before expanding its distribution system or the capacity of its distribution system, to carry out investigations (being investigations to ascertain whether it would be cost-effective to avoid or postpone the expansion by implementing demand management strategies) in circumstances in which it would be reasonable to expect that it would be cost-effective to avoid or postpone the expansion by implementing such strategies,
- (b) a condition requiring the holder of the licence to prepare and publish annual reports in relation to the investigations carried out by it as referred to in paragraph (a).

10 Page 57, Schedule 2. After line 21, insert:

#### **10 Register of licences**

- (1) The Minister is to cause a register of licences to be kept at the head office of the Department of Energy.
- (2) The register is to be kept available for inspection by members of the public, free of charge, during normal office hours.





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(3) Copies of entries in the register are to be made available to members of the public, at cost, during normal office hours.

- 11 Page 86, Dictionary, line 24. After "customers,", insert "or to convey and control the conveyance of electricity to, from and along the rail network electricity system operated by the State Rail Authority,".
- 12 Page 87, Dictionary, lines 10-12. Omit ", but does not include an electricity generator, electricity distributor or transmission operator".
- 13 Page 87, Dictionary, lines 29 and 30. Omit ", but does not include an electricity generator, electricity distributor or transmission operator".
- 14 Page 88, Dictionary. After line 3, insert:

*public reserve* has the same meaning as it has in the *Local Government Act 1993*.

*public road* has the same meaning as it has in the *Roads Act 1993*.

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C-061  
GOVT

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LEGISLATIVE COUNCIL

Sustainable Energy Development Bill 1995

First Print

Amendments to be moved in Committee

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- 1 Page 2, clause 3, line 12 to page 20, Schedule 1, line 33. Omit "Board" wherever occurring, insert instead "Council".
  - 2 Page 6, clause 9. After line 27, insert:
    - (3) The Authority must ensure that copies of its current corporate plan are available at each of its offices for purchase and inspection by members of the public.
  - 3 Page 12, clause 21, line 4. Omit "at least 3, but not more than 7," insert instead "the Executive Director and at least 2, but not more than 6,".
  - 4 Page 12, clause 21, line 6. Omit "member of the Board", insert instead "appointed member".
  - 5 Page 12, clause 21, line 9. Omit all words on that line, insert instead:
    - (a) sustainable energy or sustainable energy related services,
  - 6 Page 12, clause 21. After line 12, insert:
    - (4) The Minister must ensure that the appointed members have, between them, appropriate qualifications or experience in relation to each of the matters referred to in subsection (3).
  - 7 Page 12, clause 21, line 13. Insert "appointed" before "members".
  - 8 Page 12, clause 22, line 18. Insert "and the Authority" after "Minister".
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C-060  
GOVT

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LEGISLATIVE COUNCIL

Energy Services Corporations Bill 1995

First Print

Amendments to be moved in Committee

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- 1 Page 11, clause 18. After line 11, insert:  
(d) *Electricity (Senior Staff Positions) Regulation 1995,*
  - 2 Page 19, Schedule 4, line 21. Omit "distributor", insert instead "services corporation".
  - 3 Page 20, Schedule 4, line 4. Omit "distributor", insert instead "services corporation".
  - 4 Page 26, Schedule 4, lines 1-3. Omit all words on those lines.
  - 5 Page 27, Schedule 4, lines 1-3. Omit all words on those lines.
  - 6 Page 30, Schedule 4, lines 6-8. Omit all words on those lines.
  - 7 Page 33, Schedule 5, line 4. Omit "new generator", insert instead "energy services corporation, or to such other person or body acting on behalf of the Crown,".
  - 8 Page 34, Schedule 5, line 9. Omit "new distributor", insert instead "energy services corporation".
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## SECOND READING SPEECH

### ELECTRICITY REFORM

#### ELECTRICITY SUPPLY BILL 1995

#### ENERGY SERVICES CORPORATIONS BILL 1995

#### SUSTAINABLE ENERGY DEVELOPMENT BILL 1995

### Introduction

Mr President, the Government is engaged in a major program of reform of the electricity industry within this State. These reforms are essential and long overdue. They are directed squarely at -

- improving efficiency and service levels
- putting power in the hands of consumers by providing them with genuine choice for the first time, and
- meeting the community's expectations for substantially reduced environmental impacts from the use of electricity.

The case for reform is overwhelming. An efficient and progressive electricity industry which is responsive to customers' requirements and environmental standards provides the foundation for sustainable economic growth and job creation. The industry knows



that it can do better, and the community demands it. Nationally, the momentum of reform has been building, and the States are moving close to making the National Electricity Market a reality.

As outlined in the Electricity Reform Statement released in May, the Government's reform program has three main elements -

- the creation of viable electricity generation and distribution businesses which can offer customers a full range of energy services at minimum cost;
- the introduction of a competitive market in electricity production and supply, and
- the establishment of the Sustainable Energy Fund, to intervene in the market where barriers to the adoption of economically efficient sustainable energy technologies may remain.





These outcomes will be achieved within a framework which -

- ensures the reliability and security of supply
- maintains all current safety provisions
- protects employee and consumer rights
- enhances environmental outcomes, and
- preserves the public ownership of existing businesses.

Mr President, the establishment of an effective electricity market is the centrepiece of the reforms. For the market to be effective, it must offer customers a genuine choice between alternative suppliers. Customer preferences, not central planning, should drive the choice of production technologies and the industry's investment decisions. An effective market, for example, will provide for small scale local generation when this is economic, or for demand management solutions as an alternative to increased supply from the main grid.

Competition is the mechanism for providing customers with their required degree of choice. This applies equally to the wholesale and retail sectors of the electricity market. A key objective of the



reforms is to foster competition and competitive processes where ever practicable.

### The Reform Program

Mr President, for the reforms to be effective in delivering the consumer and environmental benefits which are available, significant changes to the structure and legislative framework of the industry are required. This is the primary purpose of the Bills which I present today.

The Government has carefully considered the structure of its generation and distribution businesses. It has initiated independent reviews of the generation and distribution sectors, and consulted with management, labor and community interest groups before making its decisions. As a result, there is now widespread understanding of the reforms across the industry and the community.

The number of electricity distributors has been reduced from twenty-five to six, comprising four primarily rural-based distributors and two metropolitan-based distributors. The operations of these



businesses will cover both electricity distribution and the supply of energy services.

To provide an adequate level of choice for customers in the wholesale market, and in anticipation of the national electricity market, two generation businesses will be established containing Pacific Power's main coal-fired power stations. One of these businesses will be structured as a holding company containing two independent generation subsidiaries.

Both the distribution and generation businesses will be corporatised, and I will return to this subject later when describing the Energy Services Corporations Bill.

Mr President, for the electricity industry to realise its full potential it must be provided with a legislative framework which clearly defines the roles and responsibilities of the Government and the participants and which provides a fair and even playing field for all parties.

Further, the legislative framework must establish these roles and responsibilities in a manner which provides for the efficient and





effective operation of a competitive electricity market. This is the main purpose of the Electricity Supply Bill.

Taken together, the Energy Services Corporations Bill and the Electricity Supply Bill provide a governance and regulatory framework which -

- clearly separates the governance responsibilities and interests of shareholding Ministers from the industry policy and regulatory responsibilities of the portfolio Minister, and
- provides an even-handed regulatory framework for all industry participants

The regulatory framework to be administered by the portfolio Minister consists of a system of authorisations, regulations, licence conditions and guidelines which is designed to balance the Government's public policy interests with the objective of promoting open and vigorous competition in the production and supply of energy services.



A key consideration for the Government in developing its reform program has been the desire to integrate State reforms with national reforms. Accordingly, it is intended that the State wholesale market will form an intermediate step to the national electricity market, which is anticipated later in 1996. The interim State wholesale market will -

- establish market relationships between State electricity supply industry bodies;
- enable the State's electricity supply industry to obtain valuable experience in market operations; and
- provide a platform for the implementation of national electricity market systems at the State level.

To avoid the requirement to duplicate the infrastructure and support systems necessary for full market operation, which will be provided by the national electricity market, the interim State wholesale market will initially be restricted to New South Wales generators and distributors trading at the wholesale level. However, this restriction will be subject to the maintenance of the present timetable for the introduction of the national market. Consumers in this State will



begin to have access to an electricity market, either State or national, no later than the last quarter of 1996.

### Social Programs

Mr President there are a number of important customer assistance schemes currently provided directly by, or in conjunction with, electricity distributors. Examples are Pensioner Rebates and the Energy Accounts Payment Assistance Scheme. It is the Government's commitment that the benefits available under these schemes will continue to be provided to customers under the new industry structure. Accordingly, the Government will ensure that the necessary actions are taken under its Social Programs Policy prior to the proclamation of these Bills to give effect to its firm commitment to maintain these benefits for customers.

### Reform Timetable

Mr President, I am pleased to report that the Government is holding to its timetable for reform. The Bills I am introducing today address the legislative requirements for the establishment of the electricity market and the industry framework, the corporatisation of





distribution and generation businesses and the establishment of the Sustainable Energy Fund.

The interim State wholesale market will commence in the first quarter of 1996, on proclamation of the Bills before you. The Government's policy on the introduction of competition and customer choice in the retail market is currently being developed, and will be the subject of further consultations with interested groups shortly. I expect finalisation of that policy in the first half of 1996, with the introduction of retail competition later in the year.

#### Electricity Supply Bill

Mr President, I now turn to the Electricity Supply Bill.

The Electricity Supply Bill will provide the environment required for establishing in an orderly, economic and secure manner an interim State wholesale electricity market (pending creation of a national electricity market) and a retail electricity market.



The electricity supply industry is described in the Bill in terms of -

- a wholesale electricity market;
- a retail electricity market;
- the transmission and distribution networks required to physically convey electricity between its places of production (generating systems) and places of utilisation (customers' premises), and
- the rights and obligations of traders, network operators and customers.

#### The Wholesale Electricity Market

The New South Wales interim wholesale electricity market will provide the means for trading electricity in bulk via the State's transmission and distribution systems. Bulk electricity supply arrangements which have traditionally been coordinated internally within Pacific Power will take place in a framework that is open, commercial and competitive, while retaining the orderly and secure features of supply which customers expect.



Participants in the wholesale electricity market are -

- wholesale traders - principally wholesale suppliers, wholesale customers, and retail suppliers (in their role as purchasers in the wholesale market); and
- network operators - TransGrid and the six electricity distributors.

Wholesale suppliers are principally the State's major electricity generators, the successors to Pacific Power. TransGrid will also be a wholesale trader for the time being in relation to electricity exchanged with interstate parties.

Retail suppliers are the organisations that will supply electricity to households and businesses throughout New South Wales. To perform this function, they will need to buy electricity in bulk through the wholesale electricity market. Each of the six electricity distributors will include a distinct retail supply business which will perform this bulk purchase and retail supply function.

The primary function of a network operator (as it relates to the wholesale electricity market) is to provide the means for conveying





electricity in bulk from the State's generators to the local distribution points from which it can be delivered to customers' installations.

While the legislation does not preclude multiple transmission operators, at this stage all transmission functions in New South Wales are exercised by TransGrid.

To ensure orderly operation of the market and secure operation of the State's electricity supply system, it is necessary for the industry to subscribe to common rules and procedures. The Electricity Supply Bill nominates TransGrid as the body to exercise the essential Market and System Operation functions. It will be a condition of participation in the wholesale electricity market that network operators and wholesale suppliers must comply with rules and procedures that are published by the Market and System Operator.

In the new industry structure, TransGrid will have both commercial and quasi regulatory roles as transmission operator, interstate electricity interchange trader and Market and System Operator. As Market and System Operator, TransGrid will not only carry out the activities required for market and system operation, but will also -



- prepare the rules and procedures required for market and system operation
- propose fees to be charged against other wholesale electricity market participants, and
- advise the Minister on authorisations and conditions for authorisations.

Accordingly, the Bill provides for a range of checks and balances in the way that TransGrid exercises its quasi-regulatory roles in the interim State wholesale market -

- fees to be charged by the Market and System Operator will be determined by the Minister
- while authorisation of network operators and wholesale traders must be the subject of recommendation to the Minister by TransGrid, the Minister will make the final decision on the authorisation
- in preparing rules, procedures and conditions for wholesale market operation TransGrid is required to consult with network operators and wholesale traders



- TransGrid is required to maintain strict separation between its Market and System Operator affairs and any of its other affairs, and
- TransGrid will remain a statutory authority subject to the direction of the Minister.

The Bill provides that wholesale traders, and network operators who convey electricity for wholesale traders, must have authorisation issued by the Minister. The conditions of their authorisations are that network operators and wholesale traders must comply with the Market and System Operator's rules and procedures. Network operators must not convey electricity on behalf of unauthorised wholesale traders, and wholesale traders in turn must not enter into wholesale supply arrangements other than with the Market and System Operator or other authorised wholesale traders.

The rules and procedures to be developed by the Market and System Operator are to include an access regime for connection to and conveyance of electricity along networks which is in accordance with National Competition Policy.





In order to manage the transition to the new statutory framework, existing electricity generators and distributors and TransGrid will be deemed to hold authorisations for their present network operations and wholesale trading activities.

### The Retail Electricity Market

The retail electricity supply market will provide the means for supplying electricity to retail customers via their connections with local distribution networks. A key reason for providing separate regulatory arrangements for the wholesale and retail market is that while the wholesale market will be subsumed within the national electricity market when it is established, the retail market will continue to be structured and coordinated on an individual State basis.

Participants in the retail electricity market are -

- retail suppliers (including the separate retail businesses conducted by electricity distributors)
- electricity distributors (in their capacity as network operators), and
- retail customers.



The primary function of an electricity distributor in the retail market is to provide to all customers within its district the electricity system connection capacity that they require, and to physically deliver electricity to customers. To do so it will own and control the distribution system required to convey electricity from the State's generators and main transmission network to individual retail customers' premises.

Local distribution will principally be carried out by the six corporatised electricity distributors.

Retail suppliers will supply electricity to individual retail customers from the electricity that they have purchased in bulk through the wholesale market. The retail suppliers attached to the six electricity distributors in the State will initially supply exclusively to the retail customers within their respective distribution districts.

Retail customers are the end-users of the electricity supplied to them. The Electricity Supply Bill defines two types of customer -



- franchise customers - which initially are all electricity customers;  
and
- non-franchise customers - as declared by the Minister.

Initially all electricity retail customers will be franchise customers and will receive supply from their local electricity distributor. Non-franchise customers who wish to avail themselves of the benefits of retail market competition will be able to choose their retail supplier, or, alternatively, seek authorisation to participate in the wholesale market. However, non-franchise customers will forego the right to receive electricity supply on regulated terms and conditions (although they will retain a right of supply from the local electricity distributor on agreed terms and conditions).

As previously mentioned, options for the introduction of retail market competition are the subject of a discussion paper which the Government will circulate shortly as part of its retail market consultation process. This will address matters such as the timetable under which customers are declared to be non-franchise, and therefore able to exercise a choice of retail supplier.





Mr President, the Bill provides that a retail electricity supplier, and an electricity distributor who conveys electricity for retail suppliers must hold a licence issued by the Minister. A distributor's licence requires the holder to -

- provide customer connection for applicants (or their agents) who own or occupy premises in the distribution district
- hold a retail supplier's licence, and
- only provide customer connection services under a customer connection contract

A retail supplier's licence requires the holder to -

- in the case of a retail supply licence held by an electricity distributor, provide supply for customers who own or occupy premises in the distribution district, (and to not otherwise supply franchise customers), and
- to only supply electricity under a customer supply contract.



In addition, licence holders are required to prepare and conform with programs, policies and procedures on a range of matters, including -

- in accordance with guidelines established by the Minister, their commercial and contractual relationships with customers
- demand management, and
- other specified environmental matters

and to submit these programs, policies and procedures to the Minister. Further, licence holders are required, as directed by the Minister, to report on their compliance with licence conditions. In order to manage the transition to the new statutory framework, existing electricity distributors will be deemed to hold electricity distributor and retail supplier licences, which will be subject to all prevailing licence conditions.

Mr President, in the past the electricity supply industry has been subject to considerable criticism for using its monopoly position to discourage customers or other potential producers of electricity from using alternative forms or sources of energy or from legitimate



energy conservation or demand management activity. To correct this, the Bill prohibits a retailer or wholesaler discriminating against any person on the basis that the person uses or supplies alternative forms or sources of energy or equipment or services that reduce the demand for energy.

Two types of customer contract are defined in the Bill - customer connection contracts, and customer supply contracts - although these may be one and the same document for most customers.

There is provision for standard form customer contracts which must be made public, and for individually agreed customer contracts.

Standard form contracts are available only for franchise customers (for supply) and for all retail customers for connection, unless those customers prefer to make individually negotiated contracts which can take whatever form the parties agree.





A standard form contract -

- will set out the mutual rights and obligations of the electricity distributor, retailer and customer and to be fully enforceable must be consistent with the Bill and regulations to be made, and
- will contain provision for charges and security deposits, standards of service to be provided by the distributor, disconnection (or supply discontinuation), inquiry, complaint and dispute handling, and other matters that may be prescribed.

All standard forms of contract will be subject to regulations. It is intended that Customer Supply Regulations will be made to set out the minimum content and provisions which must form part of these standard contracts, covering such matters as the rights and obligations of the parties including disconnection procedures. In addition, standard form contracts will be subject to price determinations by the Government Pricing Tribunal. (Honourable members will be aware that there is currently legislation before this house which proposes to change the name of the Tribunal to the Independent Pricing and Regulatory Tribunal).



Each electricity distributor will be required to establish a customer consultative group which will meet at least twice a year. These will have specified customer representation and will advise the distributor on a range of customer matters, including standard form customer contracts. The responsibility for establishing the customer consultative groups will lie with the electricity distributor. However, the Bill has provision for guidelines and regulations to ensure that any particular requirements can be observed in their appointment and constitution.

An electricity distributor often requires a customer to have additional work carried out or equipment installed before connection is made or augmented. These requirements may deal for example with matters of safety, connection or transformer capacity, or preventing interference with the system or other customer's installations.

Traditionally, such work may have been undertaken by the electricity distributor. Under this Bill, however, the customer will now have a right to have this work done by other suitably accredited persons. This mechanism will promote the competitive provision of



services while ensuring that essential safety and other technical requirements will be observed.

Any developed community relies on the integrity of reticulated services - whether it be electricity or other forms of energy such as gas, or other services such as water, waste water, or communications. Features typical of reticulated services are:

- distribution systems which are used to supply one customer usually cross lands owned or controlled by other persons.
- they can be vulnerable to customers themselves or third parties who may unknowingly or maliciously interfere with them
- they can expose the public to dangers in the event of breakdown, and
- they can expose customers to severe inconvenience or loss (which may far exceed the cost of the infrastructure) if supply is discontinued.

These features make it necessary to ensure that organisations that are entrusted with the obligation of providing reticulated services have the necessary powers to carry out their activities and to





protect the infrastructure involved. The relevant powers for distributors (contained in the Electricity Act 1945) and for TransGrid (contained in the Electricity Transmission Authority Act 1994) are substantially carried over for all network operators in the Bill.

Current provisions which allow a customer to resell purchased electricity to others - such as tenants in a shopping mall, or residents of caravan parks or boarding houses - have been continued. Because such transactions are outside the scope of the traditional electricity suppliers responsibilities, or the Bill's licensing requirements, the protections against sub-standard metering and overcharging will also remain.



The Government Pricing Tribunal has responsibilities in respect of both the retail and interim wholesale markets. In both cases, the Tribunal has, under its own Act, powers to set maximum prices charged by monopoly service providers. For the electricity supply industry this will cover -

- TransGrid, in its role of network operator;
- electricity distributors in respect of network operations and customer connection services (provided under standard form customer connection contracts); and
- retail suppliers, in respect of supply to franchise customers provided under standard form customer supply contracts.

Additionally, the Tribunal will have a role of supervising the access regime to be established by the Market and System Operator's conditions of wholesale market operation.

From the outset, the competitive relationships among electricity generators and operation of the wholesale market will make it unnecessary for generation prices to be regulated by the Tribunal. Subject then to full development of a competitive retail market only



the network and connection service operations of the industry will require price regulation.

### Safety

All provisions of the existing Electricity Act 1945 relating to matters of electrical safety and accident reporting will be preserved within that Act, with the intention of renaming the Electricity Act the Electricity Safety Act.

### Existing Contracts

The Electricity Supply Bill will not affect the rights or terms of supply of customers who are currently supplied under direct contracts with Pacific Power.

### Energy Services Corporations Bill

I now turn to the Energy Services Corporations Bill.

Mr President, in creating a competitive market in electricity in this State, it is imperative not only that the market structure and regulations encourage competition, but also that the participants are able to act in a competitive manner. As our State Owned





Corporations will be key participants in both the State and National markets, it is important that they are able to compete effectively against all distribution and generation entities in these markets. It is the Government's intention, in introducing the Energy Services Corporations Bill, to ensure that distribution and generation corporations are established in a manner which encourages competition and promotes responsible innovation in the management of the corporations.

Mr President, this Bill creates the State's generators and distributors as statutory State Owned Corporations under the State Owned Corporations Act, and through it, the Government is seeking to create corporations that are sufficiently independent to enable competition to be active and effective.

Within the Bill are clear statements of the principal objectives and functions of both the generation and distribution corporations, to be known collectively as energy services corporations. In conjunction with the State Owned Corporations Act the Bill creates governance structures for the generation and distribution corporations that are designed to foster effective competition while ensuring the



Government's interests, and those of the people of New South Wales, are adequately protected.

Mr President, while the Bill concerns both the generation and distribution sectors, it does not contain provisions relating to the transmission function performed by the Electricity Transmission Authority, or TransGrid. The Government does not intend to corporatise TransGrid while it is providing the Market and System Operations functions for the State market.

The Bill outlines a number of principal objectives for the energy services corporations, each of which are of equal importance. In developing these objectives, the Government has had regard to the importance of these corporations to the economy, to the community and to the environment.

It is the Government's intention that the energy services corporations operate as commercial businesses in a competitive environment. Accordingly, the first objective expressed in the Bill is that each distributor and generator is to be a successful business. This means each corporation has to operate at least as efficiently as



comparable private sector businesses and must seek to maximise the net worth of the State's investment in the corporation.

Furthermore, it is the Government's intention that each corporation exhibit a sense of social responsibility by having regard to the interests of the community within which it operates. Clearly, to disregard the interests of their communities would prove counterproductive as it is the customers that make up the communities in which these corporations operate. This objective complements and is consistent with another objective, namely that of exhibiting a sense of responsibility to regional development and decentralisation.

The Government recognises that impact on the environment is a key aspect in the operation of both the generators and distributors. The Bill reflects this by stipulating that a principal objective of each corporation is to protect the environment by conducting its operations in compliance with the principles of ecologically sustainable development.





The Government has also sought to encourage distributors to consider all sources of energy when seeking to obtain electricity and other forms of energy. In particular, distributors are directed to have regard to energy that has been produced from a renewable energy resource, and to have regard to the likely impact on the environment of the means by which energy from each source is produced.

These provisions reflect the Government's commitment to ensuring environmental issues are addressed in a reasonable and well-considered manner. The Government is confident that they provide a sound basis to enable environmental issues to be addressed within the electricity industry as it presently exists, and in the future.

In addition to the principal objectives, the Bill stipulates that the generators and distributors are to be efficient and responsible suppliers of electricity, and to operate safe and reliable facilities in so doing.

The Bill provides that the core functions of the generators will be to operate facilities for the generation of electricity and other forms of energy, and to supply electricity and other forms of energy to other



persons. The core functions of the distributors will be to operate facilities for the distribution of electricity and other forms of energy, and to supply energy and energy services.

Mr President, as these energy services corporations will be competing with each other as well as with private sector companies, the Government believes that it is necessary to vary the corporate governance provisions for statutory State Owned Corporations in some respects. For example, the broad power of the Portfolio Minister to require information contained within the State Owned Corporations Act has been excluded and more specific reporting powers included in the Energy Supply Bill.

Changes such as these have been designed to ensure that the boards and management are provided with sufficient freedom to pursue the objectives outlined in this Bill, while enabling the Government to retain rights and powers commensurate with its role as shareholder of these key utilities on behalf of the people of New South Wales.



In keeping with the Government's commitment to public ownership, the Bill only allows the shares to be held by eligible Government Ministers. In addition, to promote competitive outcomes and to ensure clear communication channels with the Boards of management, the portfolio Minister or Minister responsible for environmental regulation will not be a shareholding Minister. This will ensure that the relationships of the Boards with the respective shareholding Ministers remain focused on commercial issues.

#### Sustainable Energy Development Bill

Now I turn to one of the Government's most important environmental initiatives. As part of the restructuring of the electricity supply industry, the Government is establishing a Sustainable Energy Fund.

Mr President, the Fund will be one of the main mechanisms the Government will use to achieve its commitment to reducing carbon dioxide emissions in New South Wales by 2 million tonnes accumulated over a three years period.





In fact, based on calculations by independent consultants, it is expected that when programs initiated by the Fund are fully operational, the Sustainable Energy Fund will exceed the Government's target for carbon dioxide emission reductions.

The main role of the Sustainable Energy Fund is to intervene where market failure is raising barriers to the economically efficient utilisation and application of sustainable energy technologies.

The *Sustainable Energy Development Bill 1995*, establishes the Sustainable Energy Fund to provide assistance to people and firms engaged in the development, commercialisation, promotion and use of sustainable energy technology. This assistance will include -

- information, education and training;
- loans, grants, and subsidies; and
- financial guarantees.

Mr President, the term 'sustainable energy technologies' refers to products, processes, practices and designs which -



- improve efficiency in the use of energy;
- facilitate the production of energy from renewable resources; and
- facilitate the production and use of energy in ways that minimise levels of greenhouse gas emissions and other adverse environmental impacts.

The Fund is not intended to fund research activities, but rather to support those sustainable energy technologies which are already commercialised, or are on a development and demonstration path leading to commercialisation, and which would benefit from funding support.

In general, the Fund will not seek to compete in areas where the private sector is effectively operating, but will facilitate business opportunities with the private sector through targeted programs of industry assistance and through equity participation, for example in joint ventures.

Amalgamation and corporatisation of the State's electricity distributors provides an opportunity to establish incentives for electricity distributors to broaden their retail supply businesses



beyond the provision of electricity as a commodity. Indeed, some distributors are already re-orienting their retail supply businesses towards selling energy services and are becoming involved in providing their customers with energy efficiency and renewable energy solutions to their energy services needs.

One role of the Sustainable Energy Fund will be to encourage, facilitate and support this trend among electricity retailers and also to encourage electricity network businesses (both distribution and transmission) to consider energy efficiency and renewable energy options for cost-effectively deferring the need to augment their systems.

On a broader scale, the Fund will stimulate the development and establishment of viable and competitive businesses providing sustainable energy technologies by removing barriers and influencing demand. These energy services businesses will be established both within and outside the electricity supply industry.

Once fully established, these businesses will be able to compete on a more equal basis with businesses supplying electricity as a





commodity. This will complement the role of structural reform of the electricity supply industry which is removing barriers to the provision of a broad range of energy services by electricity businesses and third parties.

The Sustainable Energy Fund will be administered by a statutory body representing the Crown to be known as the Sustainable Energy Development Authority. The Authority will be a separate body with an advisory Board and its own Executive Director reporting directly to the Minister.

The *Sustainable Energy Development Bill 1995* also -

- states that the Authority will prepare a Corporate Plan and will seek public input into that process by means of a public consultation process;
- enables the Authority to form or participate in the formation of private companies and subsidiary companies; and
- enables funds from the Sustainable Energy Fund to be invested, for example in taking equity participation in the commercialisation of sustainable energy technologies.



The Bill also provides for the establishment of a Sustainable Energy Advisory Board to advise the Minister on relevant matters. The Board will be appointed by the Minister and will comprise of at least three (3) and not more than seven (7) members with appropriate qualifications or experience.

Mr President, the Government sees the Sustainable Energy Fund as a very significant initiative and is committed to providing the Fund with continuing financial support to enable it to achieve its important environmental objectives.

### Conclusion

Mr President, I have spoken at some length about these Bills, but they deserve it. Together they provide legislative substance to a reform program which is of fundamental significance to the economy of this State and to the environment. The reforms are sensible, considered and long overdue.

I commend the Bills to the House.





New South Wales

# Electricity Supply Act 1995 No 94

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The dictionary defines the following words and expressions

|                                         |                                            |
|-----------------------------------------|--------------------------------------------|
| authorisation                           | network operator's authorisation           |
| authorised officer                      | non-franchise customer                     |
| council                                 | premises                                   |
| customer                                | public authority                           |
| customer connection contract            | public reserve                             |
| customer connection service             | public road                                |
| customer consultative group             | retail customer                            |
| customer supply contract                | retail supplier                            |
| distribution district                   | retail supplier's licence                  |
| distribution system                     | roads authority                            |
| electrical installation                 | standard form customer connection contract |
| electricity distributor                 | standard form customer supply contract     |
| electricity distributor's licence       | supply                                     |
| electricity generator                   | TransGrid                                  |
| electricity structure                   | transmission operator                      |
| electricity works                       | transmission system                        |
| exercise a function                     | unincorporated area                        |
| franchise customer                      | wholesale customer                         |
| function                                | wholesale market access regime             |
| generating system                       | wholesale supplier                         |
| licence                                 | wholesale supply arrangement               |
| Market and System Operator              | wholesale trader                           |
| negotiated customer connection contract | wholesale trader's authorisation           |
| negotiated customer supply contract     |                                            |
| network operator                        |                                            |





New South Wales

## Electricity Supply Act 1995 No 94

Act No 94, 1995

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An Act to regulate the supply of electricity in the wholesale and retail markets; to set out the functions of persons engaged in the conveyance and supply of electricity; and for other purposes. [Assented to 21 December 1995]

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See also Energy Services Corporations Act 1995, Sustainable Energy Development Act 1995.

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The Legislature of New South Wales enacts:

## **Part 1 Preliminary**

### **1 Name of Act**

This Act is the *Electricity Supply Act 1995*.

### **2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

### **3 Objects**

The objects of this Act are:

- (a) to establish a competitive wholesale and retail market in electricity so as to promote efficient and environmentally responsible production and use of electricity and to deliver a safe and reliable supply of electricity, and
- (b) to regulate network operations and wholesale trading in the wholesale market for electricity in anticipation of the introduction of a national electricity market, and
- (c) to regulate network operations and electricity supply in the retail market in a manner that ensures open access to electricity distribution systems, promotes customer choice and creates customer rights in relation to electricity connections and electricity supply.

### **4 Definitions**

Expressions used in this Act that are defined in the dictionary at the end of this Act have the meanings set out in the dictionary.

### **5 Act binds Crown**

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

## **Part 2      Network operations and wholesale trading in the wholesale market**

### **Division 1   Network operations**

#### **6   Operation of transmission and distribution systems for wholesale trading**

A person must not operate a transmission or distribution system for the purpose of conveying electricity, for or on behalf of wholesale traders, otherwise than under the authority of a network operator's authorisation.

Maximum penalty: 500 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

#### **7   Authorisations**

- (1)   The Minister may grant network operators' authorisations for the purposes of this Act.
- (2)   Schedule 1 has effect with respect to the granting, variation, transfer and cancellation of network operators' authorisations.

#### **8   Network operators to convey electricity for authorised wholesale traders only**

It is a condition of a network operator's authorisation that the network operator must not operate its transmission or distribution system for the purpose of conveying electricity for or on behalf of a wholesale trader (other than the Market and System Operator) unless the wholesale trader holds a wholesale trader's authorisation.

#### **9   Network operators to comply with Market and System Operator's rules, procedures and conditions of wholesale market operation**

It is a condition of a network operator's authorisation that:

- (a)   in the case of a transmission operator, the operator must not operate its transmission system, and

- (b) in the case of an electricity distributor, the distributor must not operate its distribution system so as to convey electricity to or from a transmission system,

otherwise than in accordance with the rules, procedures and conditions of wholesale market operation published by the Market and System Operator and any directions given to the network operator by the Market and System Operator.

## **Division 2   Wholesale trading**

### **10   Authorisations**

- (1) The Minister may grant wholesale traders' authorisations for the purposes of this Act.
- (2) Schedule 1 has effect with respect to the granting, variation, transfer and cancellation of wholesale traders' authorisations.

### **11   Discrimination prohibited**

- (1) It is unlawful for a wholesale supplier:
  - (a) to refuse to supply electricity to any person, or
  - (b) to supply electricity to any person on terms that are less advantageous than those on which the wholesale supplier supplies electricity to other persons,

on the basis that the person uses or supplies alternative forms of energy, uses or supplies energy from alternative sources or uses or supplies products, processes, designs or services that reduce the demand for energy.

- (2) It is a condition of a wholesale trader's authorisation held by a wholesale supplier that the wholesale supplier must not contravene this section.



**12 Wholesale traders to comply with Market and System Operator's rules, procedures and conditions of wholesale market operation**

It is a condition of a wholesale trader's authorisation that the wholesale trader must not enter into wholesale supply arrangements otherwise than:

- (a) with the Market and System Operator or with persons who hold wholesale traders' authorisations, and
- (b) in accordance with the rules, procedures and conditions of wholesale market operation published by the Market and System Operator and any directions given to the wholesale trader by the Market and System Operator.

## **Part 3 Network operations in the retail market**

### **Division 1 Network operations**

#### **13 Operation of distribution systems for retail supply**

A person must not operate a distribution system for the purpose of conveying electricity, for or on behalf of retail suppliers, otherwise than under the authority of an electricity distributor's licence.

Maximum penalty: 500 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

#### **14 Licences**

- (1) The Minister may grant electricity distributors' licences for the purposes of this Act.
- (2) Schedule 2 has effect with respect to the granting, variation, transfer and cancellation of electricity distributors' licences.

#### **15 Right to connection to local distribution system for all customers**

- (1) An application may be made to an electricity distributor:
  - (a) by any person who owns or occupies premises within the electricity distributor's distribution district (other than a person who is entitled to the provision of customer connection services under a wholesale market access regime), or
  - (b) by any other person on behalf of any such person, for the provision of customer connection services to those premises.
- (2) An electricity distributor to which such an application is made is obliged:
  - (a) to provide customer connection services to the applicant's premises under the customer connection contract relevant to the applicant, or
  - (b) to ensure that customer connection services are so provided.



- (3) The right that a person has under this section to have premises provided with customer connection services is subject to any provision of this Act or the regulations that authorises the disconnection of those premises from, or the refusal to connect those premises to, a distribution system.
- (4) It is a condition of an electricity distributor's licence that the electricity distributor must fulfil the obligations imposed on the electricity distributor by this section.

**16 Electricity distributors to convey electricity for licensed retail suppliers only**

It is a condition of an electricity distributor's licence that the electricity distributor must not operate its distribution system for the purpose of conveying electricity, for or on behalf of a retail supplier, unless the retail supplier holds a retail supplier's licence.

**17 Electricity distributors to hold retail suppliers' licences**

It is a condition of an electricity distributor's licence that the electricity distributor must hold a retail supplier's licence at all times while it holds an electricity distributor's licence.

**18 Electricity distributors to connect premises under customer connection contracts**

It is a condition of an electricity distributor's licence that the electricity distributor must not provide any of the following services (*customer connection services*) otherwise than under a customer connection contract:

- (a) the connection of any premises to its distribution system, or
- (b) an increase in the maximum capacity of any premises' existing connection to its distribution system.

**Division 2 Standard form customer connection contracts**

**19 Procedure for making standard form customer connection contracts**

- (1) An electricity distributor must prepare a standard form customer connection contract to establish the conditions on which it will provide customer connection services.

- (2) An electricity distributor must notify any relevant customer consultative group, and must have due regard to its comments, before completing its preparation of a standard form customer connection contract.
- (3) Different forms of customer connection contract may be prepared for different classes of customer.

**20 Matters for which standard form customer connection contracts must provide**

- (1) A standard form customer connection contract must make provision for the following matters:
  - (a) the basis on which charges for its customer connection services are to be calculated,
  - (b) any security to be provided by customers for payment of any such charges,
  - (c) the standard of service to be provided to customers by the electricity distributor,
  - (d) the requirements to be complied with by customers under Division 4,
  - (e) the circumstances under which premises may be disconnected from the electricity distributor's distribution system,
  - (f) the procedures established by the electricity distributor for handling enquiries and complaints made by customers, and resolving disputes with customers, in relation to matters arising under the contract,
  - (g) such other matters as may be prescribed by the regulations.
- (2) A standard form customer connection contract:
  - (a) must indicate that this Act confers powers, duties, rights and obligations on the electricity distributor and customers, and
  - (b) must briefly describe the nature of those powers, duties, rights and obligations,

but is not unenforceable merely because of any failure to do so.

- 
- (3) A standard form customer connection contract must comply with:
- (a) any conditions imposed on the electricity distributor by its electricity distributor's licence, and
  - (b) any relevant determination made by the Government Pricing Tribunal,
- but is not unenforceable merely because of any failure to do so.
- (4) A standard form customer connection contract must not be inconsistent with the provisions of this Act or the regulations, and is unenforceable to the extent of any such inconsistency.

## **21 Effect of standard form customer connection contracts**

- (1) Except to the extent to which the regulations otherwise provide, a standard form customer connection contract takes effect:
- (a) on the first day on which notice of its terms is published in a newspaper circulating throughout the electricity distributor's distribution district, or
  - (b) on such later day as may be specified in the notice.
- (2) The particulars to be set out in a notice under this section:
- (a) must specify the date on or after which the customer connection contract is to take effect, not being a date that is earlier than the date the notice is published or served, and
  - (b) must include such other particulars as may be prescribed by the regulations.
- (3) A notice under this section may be of general application or be limited in its application by reference to specified exceptions or factors.
- (4) A standard form customer connection contract does not have effect in respect of any period before the date specified in the relevant notice as the date on or after which the contract is to take effect.



- (5) On the day on which a customer applies to an electricity distributor for the provision of customer connection services, the customer and the electricity distributor are taken to have entered into an agreement for the provision of customer connection services on the conditions set out in the relevant standard form customer connection contract, and the contract is enforceable accordingly.

## **22 Amendment of standard form customer connection contracts**

- (1) From time to time an electricity distributor may amend a standard form customer connection contract to vary the conditions on which it will provide customer connection services.
- (2) This Division applies to an amendment of a standard form customer connection contract in the same way as it applies to a standard form customer connection contract.

## **Division 3 Negotiated customer connection contracts**

### **23 Negotiated customer connection contracts**

- (1) This section applies to customer connection contracts in circumstances in which the electricity distributor and customer agree for customer connection services to be provided otherwise than under any of the electricity distributor's standard form customer connection contracts.
- (2) A customer connection contract to which this section applies (a ***negotiated customer connection contract***) may contain such terms as the electricity distributor and customer may agree, and the contract is enforceable accordingly.
- (3) A negotiated customer connection contract must comply with any conditions imposed on the electricity distributor by its electricity distributor's licence, but is not unenforceable merely because of any failure to do so.

- (4) A negotiated customer connection contract must not be inconsistent with the provisions of this Act or the regulations, and is unenforceable to the extent of any such inconsistency.

## **Division 4 Requirements relating to customer connection services**

### **24 Application**

- (1) This Division applies to any person who applies to an electricity distributor for the provision of customer connection services or to whom customer connection services are provided.
- (2) An electricity distributor may refuse to provide customer connection services to a person who fails to comply with a requirement under this Division.

### **25 Contributions to augmentation of distribution system**

- (1) An electricity distributor may require a new customer to contribute towards the costs incurred or to be incurred by the electricity distributor:
- (a) in extending its distribution system, or
  - (b) in increasing the capacity of its distribution system,
- so as to enable it to provide customer connection services to the customer.
- (2) For the purpose of ensuring that previously incurred costs of the kind referred to in subsection (1) are equitably borne by customers in the same vicinity, the electricity distributor:
- (a) may require further new customers to contribute towards those costs, and
  - (b) may apply the whole or any part of the contributions received from those customers to the repayment of existing customers who have previously contributed towards those costs.
- (3) An electricity distributor may not require a contribution referred to in subsection (2) (a) if:

- (a) the total costs incurred or to be incurred by the electricity distributor (excluding any amounts repaid or to be repaid as referred to in subsection (2) (b)) have already been recovered, or
- (b) those costs were incurred more than 6 years before the date on which the new customer applied for the provision of customer connection services.

## **26 Service lines**

- (1) An electricity distributor may require the installation of such service lines, and provision for their attachment, as it considers necessary to provide a supply of electricity to a customer.
- (2) The type, construction and route of a service line and its point of connection are to be as determined by the electricity distributor.
- (3) An electricity distributor may require premises to be provided with more than one point of connection if the electricity distributor considers it necessary to avoid interference with the supply of electricity to any other premises.

## **27 Service equipment**

- (1) An electricity distributor may require the installation of such service equipment, and provision for its mounting, as it considers necessary for the provision of a safe and efficient supply of electricity to a customer.
- (2) The position and standards of installation of service equipment are to be as determined by the electricity distributor.

## **28 Transformers**

- (1) This section applies if, in the opinion of the electricity distributor, the supply of electricity required by a customer:
  - (a) exceeds that which can be provided by a service line from its street mains, and
  - (b) can best be given by installing transformers, switchgear or other equipment on the premises to be supplied.



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- (2) In such a case, the electricity distributor may require the customer to provide for use by the electricity distributor, free of cost, a place within those premises to accommodate the transformers, switchgear or other equipment that the electricity distributor considers should be installed.
  - (3) The place provided must be approved by, and must be enclosed in a manner approved by, the electricity distributor.

## **29 Electricity meters**

- (1) An electricity distributor may require the installation of such electricity meters as it considers necessary to ascertain the quantity of electricity supplied to a customer.
- (2) The position and standards of installation of electricity meters are to be as determined by the electricity distributor.

## **30 Requirements as to installation and use of apparatus**

- (1) An electricity distributor:
  - (a) may impose such requirements as to the installation and use of electrical appliances and equipment by the customer as the electricity distributor considers necessary to prevent or minimise adverse effects on the supply of electricity to other customers, and
  - (b) may impose requirements relating to loading of, and the balancing of the load over, the phases of the customer's electricity supply, and
  - (c) may impose requirements as to the minimum rupture rating or minimum breaking capacity of the customer's main protective devices, and
  - (d) may require the customer to install relays, current transformers and other protective equipment having characteristics to suit the electricity distributor's protective system.
- (2) A customer must comply with any requirement imposed on the customer under this section.

### **31 Customer may choose supplier and contractor**

- (1) For the purpose of complying with any requirement imposed under this Division or under a customer connection contract, a customer may elect:
  - (a) to have any required electrical or other goods provided by the electricity distributor (in the case of goods that are available from the electricity distributor) or by any other person, and
  - (b) to have any required electrical or other services provided by the electricity distributor (in the case of services that are available from the electricity distributor) or by any other person.
- (2) A person who provides electrical or other services of a kind prescribed by the regulations must be accredited, in accordance with the regulations, to provide those services.

### **32 Sealing of electrical installations**

An electricity distributor may attach seals to a customer's electrical installation if it considers it appropriate to do so.

## **Part 4      Electricity supply in the retail market**

### **Division 1   Electricity supply**

#### **33   Licences**

- (1) The Minister may grant retail suppliers' licences for the purposes of this Act.
- (2) Schedule 2 has effect with respect to the granting, variation, transfer and cancellation of retail suppliers' licences.

#### **34   Right to supply from local electricity distributor for all franchise and non-franchise customers**

- (1) An application may be made to an electricity distributor:
  - (a) by any person who owns or occupies premises that are connected to the electricity distributor's distribution system, or
  - (b) by any other person on behalf of any such person,for the supply of electricity to those premises, at a rate not exceeding the maximum capacity of the connection to the system.
- (2) An electricity distributor to which such an application is made is obliged:
  - (a) to supply electricity to the applicant's premises under the customer supply contract relevant to the applicant, or
  - (b) to ensure that electricity is so supplied.
- (3) The right that a person has under this section to have premises supplied with electricity is subject to any provision of this Act or the regulations that authorises the refusal, suspension or discontinuance of the supply of electricity.
- (4) It is a condition of a retail supplier's licence held by an electricity distributor that the electricity distributor must fulfil the obligations imposed on the electricity distributor by this section.



### **35 Discrimination prohibited**

- (1) It is unlawful for a retail supplier:
- (a) to refuse to supply electricity to any person, or
  - (b) to supply electricity to any person on terms that are less advantageous than those on which the retail supplier supplies electricity to other persons,

on the basis that the person uses or supplies alternative forms of energy, uses or supplies energy from alternative sources or uses or supplies products, processes, designs or services that reduce the demand for energy.

- (2) It is a condition of a retail supplier's licence that the retail supplier must not contravene this section.

### **36 Supply of electricity to franchise customers**

- (1) It is a condition of a retail supplier's licence that the retail supplier must not supply electricity to the premises of a franchise customer otherwise than:
- (a) in the case of an electricity distributor, for the purpose of supplying electricity to the customer under the obligation imposed on the electricity distributor by section 34, or
  - (b) in the case of any other retail supplier, for the purpose of supplying electricity to the customer on behalf of an electricity distributor under the obligation imposed on the electricity distributor by section 34.
- (2) This section does not affect any arrangements approved by the Minister under which electricity distributors with adjoining distribution districts supply electricity to franchise customers in each others' distribution districts.

### **37 Supply of electricity to non-franchise customers**

A retail supplier may, but (subject to section 34) is not required to, supply electricity to the premises of a non-franchise customer.

**38 Retail suppliers to supply electricity under customer supply contracts**

It is a condition of a retail supplier's licence that the retail supplier must not supply electricity to the premises of a retail customer otherwise than under a customer supply contract.

**Division 2 Standard form customer supply contracts****39 Procedure for making standard form customer supply contracts**

- (1) A retail supplier must prepare a standard form customer supply contract to establish the conditions on which it will supply electricity to the premises of its franchise customers.
- (2) A retail supplier must notify any relevant customer consultative group, and must have due regard to its comments, before completing its preparation of a standard form customer supply contract.
- (3) Different forms of customer supply contract may be prepared for different classes of franchise customers.

**40 Matters for which standard form customer supply contracts must provide**

- (1) A standard form customer supply contract must make provision for the following matters:
  - (a) the basis on which charges for the supply of electricity to franchise customers are to be calculated,
  - (b) any security to be provided by franchise customers for payment of any such charges,
  - (c) the standard of service to be provided to franchise customers by the retail supplier,
  - (d) the circumstances under which the supply of electricity to franchise customers may be discontinued,
  - (e) the procedures established by the retail supplier for handling enquiries and complaints made by franchise customers, and resolving disputes with franchise customers, in relation to matters arising under the contract,

- (f) the estimation of electricity supplied otherwise than through an electricity meter or in circumstances in which an electricity meter fails to operate or fails to operate correctly,
  - (g) the rate at which electricity is taken to have been supplied between consecutive meter readings,
  - (h) such other matters as may be prescribed by the regulations.
- (2) A standard form customer supply contract:
  - (a) must indicate that this Act confers powers, duties, rights and obligations on the retail supplier and franchise customers, and
  - (b) must briefly describe the nature of those powers, duties, rights and obligations,but is not unenforceable merely because of any failure to do so.
- (3) A standard form customer supply contract must comply with:
  - (a) any conditions imposed on the retail supplier by its retail supplier's licence, and
  - (b) any relevant determination made by the Government Pricing Tribunal,but is not unenforceable merely because of any failure to do so.
- (4) A standard form customer supply contract must not be inconsistent with the provisions of this Act or the regulations, and is unenforceable to the extent of any such inconsistency.

#### **41 Effect of standard form customer supply contracts**

- (1) Except to the extent to which the regulations otherwise provide, a standard form customer supply contract takes effect:
  - (a) on the first day on which notice of its terms is published in a newspaper circulating throughout the State or in a newspaper circulating throughout the relevant distribution district, or
  - (b) on such later day as may be specified in the notice.
- (2) The particulars to be set out in a notice under this section:
  - (a) must specify the date on or after which the customer supply contract is to take effect, not being a date that is earlier than the date the notice is published or served, and



- (b) must include such other particulars as may be prescribed by the regulations.
- (3) A notice under this section may be of general application or be limited in its application by reference to specified exceptions or factors.
- (4) A standard form customer supply contract does not have any effect in respect of any period before the date specified in the relevant notice as the date on or after which the contract is to take effect.
- (5) On the day on which a customer applies to a retail supplier for the supply of electricity, the customer and the retail supplier are taken to have entered into an agreement for the provision of electricity on the conditions set out in the relevant standard form customer supply contract, and the contract is enforceable accordingly.

#### **42 Amendment of standard form customer supply contracts**

- (1) From time to time a retail supplier may amend a standard form customer supply contract so as to vary the conditions on which it supplies electricity to franchise customers.
- (2) This Division applies to an amendment of a standard form customer supply contract in the same way as it applies to a standard form customer supply contract.

### **Division 3 Negotiated customer supply contracts**

#### **43 Negotiated customer supply contracts**

- (1) This clause applies:
  - (a) to customer supply contracts for non-franchise customers, and
  - (b) to customer supply contracts for franchise customers in circumstances in which the retail supplier and the franchise customer agree for electricity to be supplied otherwise than under any of the retail supplier's standard form customer supply contracts.

- (2) A customer supply contract to which this section applies (a ***negotiated customer supply contract***) may contain such terms as the retail supplier and customer may agree, and the contract is enforceable accordingly.
- (3) A negotiated customer supply contract must comply with any conditions imposed on the retail supplier by its retail supplier's licence, but is not unenforceable merely because of any failure to do so.
- (4) A negotiated customer supply contract must not be inconsistent with the provisions of this Act, and is unenforceable to the extent of any such inconsistency.

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## **Part 5      Powers and duties of network operators                  generally**

### **Division 1   Acquisition of land**

#### **44   Acquisition of land**

- (1) A network operator may acquire land (including an interest in land) for the purposes of this Act.
- (2) Land that a network operator is authorised to acquire under this section may be acquired by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of this Act.
- (3) A network operator may not give a proposed acquisition notice under the *Land Acquisition (Just Terms Compensation) Act 1991* without the approval of the Minister.

### **Division 2   Powers and duties relating to electricity works**

#### **45   Erection and placement of electricity works**

- (1) This section applies to work connected with the erection, installation, extension, alteration, maintenance and removal of electricity works.
- (2) For the purposes of this Act, a network operator:
  - (a) may carry out work to which this section applies, and
  - (b) in particular, may carry out any such work on a public road or public reserve.
- (3) Work to which this section applies is exempt from the requirement for an approval under the *Local Government Act 1993* except in relation to buildings.
- (4) However, no such work (other than routine repairs or maintenance work) may be carried out unless:
  - (a) notice of the proposal to carry out the work has been given to the local council, and

- (b) the local council has been given a reasonable opportunity (being not less than 40 days from the date on which the notice was given) to make submissions to the network operator in relation to the proposal, and
  - (c) the network operator has given due consideration to any submissions so made.
- (5) Subsection (4) does not apply to the carrying out of work to cope with emergencies.

#### **46 Damage to be made good**

- (1) If a public road or public reserve is damaged by any work carried out by a network operator, the local council or roads authority may require the network operator to make good the damage without delay.
- (2) If the network operator fails to carry out appropriate work in accordance with any such requirement, the local council or roads authority may carry out the work itself.
- (3) The cost of carrying out the work may be recovered by the local council or roads authority in a court of competent jurisdiction as a debt owed to it by the network operator.

#### **47 Altering position of conduit**

- (1) A network operator may serve a written notice on a person if:
  - (a) the network operator needs an alteration to be made in the position of a conduit owned by the person, and
  - (b) the alteration would not permanently damage the conduit or adversely affect its operation.
- (2) The notice:
  - (a) must specify the work to be carried out, and
  - (b) must specify a reasonable time within which the work is to be carried out, and
  - (c) must include an undertaking by the network operator to pay the reasonable cost of carrying out the work.



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- (3) If the work is not carried out as required by the notice, the network operator may carry out the work in a manner that does not permanently damage the conduit or adversely affect its operation.
  - (4) In this section, **conduit** means anything that is in or under a public road (or any other land on which no building or other structure is located) and is used for the conveyance of a substance, energy or signals.

#### **48 Interference with electricity works by trees**

- (1) This section applies if a network operator has reasonable cause to believe that a tree situated on any premises:
  - (a) could destroy, damage or interfere with its electricity works, or
  - (b) could make its electricity works become a potential cause of bush fire or a potential risk to public safety.
- (2) In those circumstances, a network operator:
  - (a) may serve a written notice on the owner of the premises requiring the owner to trim or remove the tree, or
  - (b) in an emergency, may, at its own expense, trim or remove the tree itself.
- (3) A notice under subsection (2) (a):
  - (a) must specify the work to be carried out, and
  - (b) must specify a reasonable time within which the work is to be carried out, and
  - (c) must include an undertaking by the network operator to pay the reasonable cost of carrying out the work.
- (4) Subsection (3) (c) does not apply in either of the following circumstances:
  - (a) if, after the electricity works were first laid or installed, an owner or occupier of the premises planted the tree, or caused or permitted the tree to be planted, in circumstances in which the owner or occupier ought reasonably to have known that destruction of, damage to or interference with the works would result,



- (b) the land in or on which the tree is located, and on or over which the works are located, was the subject of an easement in favour of the network operator (or a predecessor of the network operator) when the tree was planted.
- (5) If the work is not carried out as required by the notice, the network operator may carry out the work itself.
- (6) The cost of carrying out the work may be recovered by the network operator in a court of competent jurisdiction as a debt owed to it by the owner of the premises on which the tree is situated, but only in the circumstances referred to in subsection (4).
- (7) This section applies despite the existence of a tree preservation order or environmental planning instrument (other than a State environmental planning policy), but does not apply to any tree within a protected area or to any tree that is the subject of or is within an area that is the subject of:
  - (a) an interim conservation order or a permanent conservation order under the *Heritage Act 1977*, or
  - (b) an order in force under section 130 or 136 of the *Heritage Act 1977*, or
  - (c) an interim protection order under the *National Parks and Wildlife Act 1974*, or
  - (d) a protection conferred by any similar law.
- (8) Nothing done for the purpose of carrying out the work required by a notice under this section constitutes an offence against any law under which a tree preservation order or environmental planning instrument (other than a State environmental planning policy) relating to the land is made.
- (9) In this section:  
***protected area*** means an area that is within:
  - (a) a national park or nature reserve within the meaning of the *National Parks and Wildlife Act 1974*, or
  - (b) land that is reserved or zoned for environmental protection purposes under the *Environmental Planning and Assessment Act 1979*, or

- (c) a public reserve within the meaning of the *Local Government Act 1993*.

*tree* includes shrub and plant.

#### **49 Obstruction of electricity works**

- (1) This section applies if a network operator has reasonable cause to believe that any structure or thing placed in, on or near its electricity works is destroying, damaging or interfering with those works.
- (2) In those circumstances, a network operator:
  - (a) may serve a written notice on the person having control of the structure or thing requiring that person to modify or remove it, or
  - (b) in an emergency, may, at its own expense, modify or remove the structure or thing itself.
- (3) A notice under subsection (2) (a):
  - (a) must specify the work to be carried out, and
  - (b) must specify a reasonable time within which the work is to be carried out.
- (4) If the person fails to carry out the work in accordance with the requirement, the network operator may carry out the work itself.
- (5) The costs of:
  - (a) carrying out the work, and
  - (b) repairing any damage done to the network operator's electricity works by the structure or thing,may be recovered by the network operator in a court of competent jurisdiction as a debt owed to it by the person.
- (6) A network operator may apply for an injunction to prevent a structure or thing being placed in, on or near its electricity works.

#### **50 Charges for placement of electricity works**

No annual or other periodic or special charge is payable by a network operator to a local council or roads authority in respect of any electricity works located in a public reserve or public road or in respect of the space in a public reserve or public road that is occupied by any such works.

### **51 Ownership of electricity works**

- (1) A network operator is the owner of its electricity works, whether or not the land in, on or over which they are situated is owned by the network operator.
- (2) A network operator's electricity works are not to be taken in execution of any judgment against a person other than the network operator under any process of a court.

### **52 Interruption to electricity supply for maintenance**

A network operator may interrupt the supply of electricity to a customer, at such reasonable times as the network operator determines:

- (a) for the purpose of inspecting, testing or carrying out repairs or maintenance work on its electricity works, or
- (b) for such other purpose as the network operator considers necessary for the safe and efficient operation of its electricity works.

### **53 Liability for failure of electricity supply**

An electricity distributor is not liable for any loss suffered by any person as a consequence of any failure to supply electricity, or of any defect in that supply, if the failure or defect is caused:

- (a) by the breakdown of the electricity distributor's electricity works, or
- (b) by causes not within the electricity distributor's control.

## **Division 3 Powers of entry**

### **54 Powers of entry**

- (1) An authorised officer may enter any premises for the purpose of exercising any function conferred or imposed on a network operator by or under this Act, including:
  - (a) carrying out preliminary investigations in connection with the proposed installation or extension of electricity works, or



- (b) installing, extending, maintaining, repairing or removing electricity works, or
  - (c) reading electricity meters, or
  - (d) checking if the network operator's conditions relating to tariffs and the use of electricity are being complied with, or
  - (e) ascertaining whether an offence against this Act or the regulations has been committed.
- (2) Except in emergencies, the power of entry may be exercised only during daylight hours.

### **55 Notice of entry**

- (1) Before an authorised officer exercises a power of entry under this Division, the network operator must give the owner or occupier of the land written notice of the intention to enter the land.
- (2) The notice must specify the day on which the authorised officer intends to enter the land and must be given before that day.
- (3) This section does not require notice to be given:
- (a) if entry to the land is made with the consent of the owner or occupier of the land, or
  - (b) if entry is required for the sole purpose of reading an electricity meter, or
  - (c) if entry is required in an emergency.

### **56 Use of force**

- (1) Reasonable force may be used for the purpose of gaining entry to any land (other than such part of a building as is being used for residential purposes) under a power conferred by this Division, but only if authorised by the network operator in accordance with this section.
- (2) The authority:
- (a) must be in writing, and
  - (b) must be given in respect of the particular entry concerned, and
  - (c) must specify the circumstances that must exist before force may be used.

### **57 Notification of use of force or urgent entry**

- (1) An authorised officer:
  - (a) who uses force for the purpose of gaining entry to land, or
  - (b) who enters land in an emergency without giving written notice to the owner or occupier of the land,must promptly advise the network operator of that fact.
- (2) The network operator must give notice of the entry to such persons or authorities as appear to the network operator to be appropriate in the circumstances.

### **58 Care to be taken**

- (1) In the exercise of a power under this Division, an authorised officer must do as little damage as possible.
- (2) As far as practicable, entry onto fenced land is to be made through an existing opening in the enclosing fence or, if entry through an existing opening is not practicable, through a new opening.
- (3) Any new opening is to be properly closed when the need for entry ceases.
- (4) If, in the exercise of a power under this Division, any pit, trench, hole or bore is made, the network operator must, if the owner or occupier of the land so requires:
  - (a) fence it and keep it securely fenced so long as it remains open or not sufficiently sloped down, and
  - (b) without unnecessary delay, fill it up or level it or sufficiently slope it down.

### **59 Recovery of cost of entry and inspection**

If an authorised officer enters any land for the purpose of making an inspection and, as a result of the inspection, the network operator requires any work to be carried out on the land, the network operator may recover the reasonable costs of the entry and inspection from the owner or occupier of the land.



**60 Compensation**

The network operator must pay compensation to the owner of any land in respect of which a power has been exercised under this Division for any loss or damage arising from the exercise of the power, but is not so liable to the extent to which the loss or damage arises from work done for the purposes of an inspection which reveals that there has been a contravention by the owner of any provision of this Act or the regulations.

**61 Certificates of authority to enter land**

- (1) A power of entry under this Division may not be exercised by an authorised officer unless the authorised officer:
  - (a) is in possession of a certificate of authority issued by the network operator, and
  - (b) produces the certificate when required to do so by the owner or occupier of the land.
- (2) The certificate of authority:
  - (a) must state that it is issued under this Act, and
  - (b) must give the name of the person to whom it is issued, and
  - (c) must describe the nature of the powers conferred and the source of those powers, and
  - (d) must state the date (if any) on which it expires, and
  - (e) must describe the kind of land to which the power extends, and
  - (f) must be under the seal of the network operator or must bear the signature of the principal officer of the network operator, of a prescribed officer of the network operator or of an officer belonging to a prescribed class of officers of the network operator.

**62 Entry to residential premises**

A power of entry conferred by this Division is not exercisable in relation to such part of a building as is used for residential purposes except:

- (a) with the consent of the occupier of that part of the premises, or
- (b) for the sole purpose of reading an electricity meter, or
- (c) under the authority conferred by a warrant of entry.

### 63 Warrants of entry

- (1) A network operator may apply to an authorised justice if it is of the opinion that it is necessary for an authorised officer to enter and inspect any land (including any building used for residential purposes) for the purposes of this Act.
- (2) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a warrant of entry authorising an authorised officer named in the warrant to enter and inspect the land for the purposes of this Act.
- (3) Part 3 of the *Search Warrants Act 1985* applies to a warrant of entry under this section in the same way as it applies to a search warrant under that Act.
- (4) In this section, ***authorised justice*** has the same meaning as it has in the *Search Warrants Act 1985*.

## **Part 6      Offences**

### **Division 1    General offences**

#### **64    Theft of electricity**

A person must not abstract, cause to be wasted or diverted, consume or use any electricity from a generating, transmission or distribution system unless authorised to do so under a wholesale supply arrangement or customer supply contract.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

#### **65    Interference with electricity works**

A person must not interfere with a network operator's electricity works unless authorised to do so by the network operator.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

#### **66    Interference with electricity meters**

A person must not alter or otherwise interfere with a meter that is connected to an electricity distributor's distribution system unless authorised to do so by the electricity distributor.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

#### **67    Interference with electricity distributor's seals**

A person must not alter or otherwise interfere with any seal that has been attached to an electrical installation by an electricity distributor unless authorised to do so by the electricity distributor.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

#### **68    Unauthorised connections**

A person must not connect an electrical installation to an electricity distributor's distribution system unless authorised to do so by the electricity distributor.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case).



## **69 Unauthorised increase in capacity of connections**

A person must not increase the capacity of an existing connection to an electricity distributor's distribution system unless authorised to do so by the electricity distributor.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

## **70 Unauthorised alterations and additions to electrical installations**

A person must not alter or add to an electrical installation that is connected to an electricity distributor's distribution system so as to cause the supply of electricity to the installation or any part of it to be incorrectly metered unless authorised to do so by the electricity distributor.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

## **71 Obstruction of authorised officers**

A person must not:

- (a) prevent an authorised officer from exercising any function conferred or imposed on the authorised officer under this Act, or
- (b) hinder or obstruct an authorised officer in the exercise of any such function, or
- (c) impersonate an authorised officer.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

## **Division 2 Restrictions on resupply of electricity**

### **72 Charges for the use of electricity prohibited**

- (1) A person to whose premises electricity is supplied under a wholesale supply arrangement or customer supply contract must not charge any other person for the use of electricity so supplied.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

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- (2) This section does not prohibit a person from imposing a separate charge for the use of a specified service or facility as a result of the fact that the use of that service or facility involves the consumption of electricity.
- (3) This section does not prohibit a landlord from imposing a charge for electricity supplied to a tenant if:
- (a) the quantity of electricity so supplied is measured by a separate electricity meter that complies with the regulations, and
  - (b) the charge imposed for the electricity so supplied is no greater than the maximum allowable amount.
- (4) A landlord who charges a tenant for electricity supplied to the tenant:
- (a) must make such records relating to the electricity so supplied, and
  - (b) must keep those records for such period,
- as may be prescribed by the regulations.
- (5) The regulations may require the landlord to furnish the tenant with a copy of any records made under this section.
- (6) In this section:
- landlord*** means:
- (a) the owner or lessor of any premises, whether business, residential or otherwise, or
  - (b) the proprietor or operator of the premises of any hotel, motel, inn, hostel, boarding or rooming house, holiday flats or cabins, manufactured home estate, caravan park or campsite or any other premises prescribed by the regulations.
- maximum allowable amount***, in relation to a quantity of electricity supplied during a specific period, means:
- (a) the amount prescribed by or calculated in accordance with the regulations for a similar quantity of electricity supplied during the same period, or
-



- (b) if no such regulations are in force, the amount that the local electricity distributor would have charged under a standard form customer supply contract for a similar quantity of electricity supplied during the same period.

*tenant* includes any person who occupies premises in respect of which some other person is a landlord.

### **Division 3 Supplementary orders**

#### **73 Local Court may order disconnection and discontinuance of electricity supply**

- (1) A Local Court that finds a person guilty of an offence under Division 1 may make either or both of the following orders:
  - (a) an order that the premises to which the offence relates be disconnected from the distribution system of the electricity distributor concerned, or
  - (b) an order that the supply of electricity to those premises be discontinued.
- (2) An order under this section has effect regardless of the provisions of any customer connection contract, customer supply contract or wholesale supply arrangement.

#### **74 Local Court may order payment for electricity unlawfully charged for**

A Local Court that finds a person guilty of an offence under Division 2 of unlawfully charging for the use of electricity may make an order directing the person to refund the whole, or such part as the Court considers appropriate, of any amount paid to the person in respect of that charge.

#### **75 Local Court may order payment for stolen electricity**

A Local Court that finds a person guilty of an offence under section 64 of unlawfully causing electricity to be abstracted, wasted, diverted, consumed or used may make an order directing the person to pay to the wholesale or retail supplier concerned such amount as the Court considers appropriate for the electricity so wasted, diverted, consumed or used.

## **76 Orders for payment operate as judgments**

- (1) An order under this Division for the payment of money:
  - (a) may be made by a Local Court on its own motion, or on the application of the wholesale or retail supplier concerned, at any time within 6 months after the date of the finding, and
  - (b) may be enforced in a Local Court exercising jurisdiction under the *Local Court (Civil Claims) Act 1970*.
- (2) Part 5 of the *Local Court (Civil Claims) Act 1970* applies to and in respect of such an order as if:
  - (a) the order were a judgment of the Local Court exercising that jurisdiction, and
  - (b) the amount ordered to be refunded were a judgment debt referred to in that Part, and
  - (c) the person against whom the order was made were a judgment debtor referred to in that Part, and
  - (d) the person in favour of whom the order was made were a judgment creditor referred to in that Part.
- (3) The remedy provided by this section is an alternative to any other remedy that may be available apart from this section.

## Part 7 Administration

### Division 1 The Market and System Operator

#### 77 Appointment of Market and System Operator

- (1) TransGrid is the Market and System Operator for the purposes of this Act.
- (2) However, the Minister may appoint any other eligible person to be the Market and System Operator, in which case TransGrid ceases to be the Market and System Operator.
- (3) The Market and System Operator has the functions conferred or imposed on the Market and System Operator by or under this or any other Act or law.
- (4) The Market and System Operator is subject to the control and direction of the Minister.
- (5) The Market and System Operator must ensure that its affairs in its capacity as the Market and System Operator are kept separate from, and not influenced by, any of its other affairs.
- (6) In this section, *eligible person* means:
  - (a) any public authority, or
  - (b) any person prescribed by the regulations or belonging to a class of persons prescribed by the regulations.

#### 78 Principal functions of Market and System Operator

- (1) The principal functions of the Market and System Operator are as follows:
  - (a) ensuring the security and reliability of the State electricity supply system,
  - (b) regulating the conveyance of electricity to, from and along transmission systems,
  - (c) monitoring, controlling and co-ordinating the conveyance of electricity to, from and along transmission systems,



- (d) administering the operation of the wholesale market for electricity,
  - (e) regulating the measurement of the supply of electricity to, from and along transmission systems,
  - (f) preparing, publishing and supervising the implementation of rules, procedures and conditions of wholesale market operation in relation to its functions.
- (2) In preparing rules, procedures and conditions of wholesale market operation referred to in subsection (1) (f), the Market and System Operator must consult with the network operators and wholesale traders.
- (3) Without limitation, the Market and System Operator's conditions of wholesale market operation:
  - (a) must establish an access regime (being a regime that conforms to the principles set out in clause 6 (4) of the Competition Principles Agreement between the Commonwealth, the States and the Territories that was entered into, for and on behalf of New South Wales, on 11 April 1995) in relation to connections to transmission and distribution systems and the conveyance of electricity to, from and along transmission and distribution systems, and
  - (b) may include conditions with respect to network operations and wholesale trading generally, and
  - (c) may include conditions with respect to liability for any loss or damage for acts or omissions of the Market and System Operator or any network operator or wholesale trader.

**79 Market and System Operator may impose fees on network operators**

- (1) The Market and System Operator may require network operators and wholesale traders to pay to it such management fees as may be determined by the Minister to cover the costs incurred by the Market and System Operator in exercising its functions under this Act.
- (2) It is a condition of a network operator's or wholesale trader's authorisation that the network operator or wholesale trader must comply with any such requirement.

## **80 System Control Fund**

- (1) There is to be a System Control Fund.
- (2) The System Control Fund is to be administered by the Market and System Operator.
- (3) There is to be paid into the System Control Fund:
  - (a) all money received by or on account of the Market and System Operator and payable to it as management fees by network operators and wholesale traders, and
  - (b) all money required to be paid into the System Control Fund by or under this or any other Act.
- (4) There may be paid from the System Control Fund:
  - (a) the costs incurred by the Market and System Operator in exercising its functions under this Act in relation to system control, and
  - (b) all other payments required by or under this or any other Act to be paid from the System Control Fund.

## **81 Market Operations Fund**

- (1) There is to be a Market Operations Fund.
- (2) The Market Operations Fund is to be administered by the Market and System Operator.
- (3) There is to be paid into the Market Operations Fund:
  - (a) all money received by or on account of the Market and System Operator in connection with its operation and administration of the wholesale market for electricity (other than money payable to the Market Settlements Fund), and
  - (b) all money required to be paid into the Market and System Operations Fund by or under this or any other Act.
- (4) There may be paid from the Market Operations Fund:
  - (a) the costs incurred by the Market and System Operator in exercising its functions under this Act in relation to its operation and administration of the wholesale market for electricity, and
  - (b) all other payments required by or under this or any other Act to be paid from the Market Operations Fund.



**82 Market Settlements Fund**

- (1) There is to be a Market Settlements Fund.
- (2) The Market Settlements Fund is to be administered by the Market and System Operator.
- (3) There is to be paid into the Market Settlements Fund:
  - (a) all money received by or on account of the Market and System Operator for payment to wholesale suppliers of electricity and other wholesale traders, and
  - (b) all money required to be paid into the Market Settlements Fund by or under this or any other Act.
- (4) There may be paid from the Market Settlements Fund:
  - (a) all money payable by the Market and System Operator to wholesale suppliers of electricity and other wholesale traders, and
  - (b) all other payments required by or under this or any other Act to be paid from the Market Settlements Fund.

**Division 2 Distribution districts****83 Distribution districts of electricity distributors**

- (1) Each electricity distributor listed in Schedule 3 has a distribution district comprising the local government areas, or parts of local government areas, described in that Schedule.
- (2) The boundaries of an electricity distributor's distribution district are unaffected by any change in the boundaries of a local government area and, for that purpose, the boundaries of the local government area are taken to remain the same as they were when the reference to the local government area was included in Schedule 3.

**84 Variation of distribution districts**

- (1) The Governor may, by regulation, amend Schedule 3 so as:
  - (a) to vary the boundaries of an existing electricity distributor's distribution district, or
  - (b) to include the boundaries of the distribution district of an additional electricity distributor.

- (2) The regulations may contain provisions of a savings or transitional nature consequent on the variation or inclusion of any such boundaries.
- (3) Any such provision may, if the regulations so provide, take effect from the day on which the variation or inclusion of boundaries occurs or a later day.
- (4) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

#### **85 Transfer of staff, assets, rights and liabilities**

- (1) The Minister may direct, by order in writing, that any specified staff, assets, rights or liabilities of an electricity distributor whose distribution district is varied be transferred to such other electricity distributor as is specified in the order.
- (2) Such an order may be made on such terms and conditions as are specified in the order.
- (3) Schedule 4 applies to the transfer of staff, assets, rights or liabilities under this section.

### **Division 3 Licence Compliance Advisory Board**

#### **86 Establishment of Board**

- (1) The Minister is to establish a Licence Compliance Advisory Board.
- (2) The Board is to consist of 4 members, comprising:
  - (a) one member nominated by the Nature Conservation Council, and

- (b) one member nominated by the Australian Consumers Association, and
  - (c) 2 members representative of the Minister for Energy.
- (3) The constitution and procedure of the Board are to be as prescribed by the regulations.

### **87 Functions of Board**

- (1) The functions of the Licence Compliance Advisory Board are to monitor, and report to the Minister on, the extent to which electricity distributors and retail suppliers comply, or fail to comply, with the conditions imposed on the licences held by them.
- (2) For the purpose of enabling the Board to exercise its functions, the Minister must furnish the Board with such information in the possession of the Minister as the Board may request in relation to the compliance by electricity distributors and retail suppliers with the conditions imposed on the licences held by them.

### **88 Annual reports**

- (1) As soon as practicable after 30 June (but on or before 31 October) in each year, the Licence Compliance Advisory Board must prepare and forward to the Minister a report on the extent to which electricity distributors and retail suppliers have complied, or failed to comply, with the conditions imposed on the licences held by them during the 12 months ending on 30 June in that year.
- (2) The Minister must lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

## **Division 4 Customer consultative groups**

### **89 Appointment of customer consultative groups**

- (1) An electricity distributor must, in accordance with any guidelines in force under this section, appoint at least one customer consultative group to act as a forum for consultation between the electricity distributor and its customers.



- (2) The Minister may, by order published in the Gazette, establish guidelines for the appointment of customer consultative groups.
- (3) An order under this section takes effect on the day on which it is published in the Gazette or on such later day as is specified in the order.

## **90 Constitution of customer consultative groups**

- (1) Except to the extent to which the regulations otherwise provide, a customer consultative group must include members representing each of the following sections of the community:
  - (a) consumer groups,
  - (b) low-income households,
  - (c) persons living in rural and remote areas,
  - (d) domestic customers,
  - (e) industrial and commercial customers.
- (2) Except to the extent to which the regulations otherwise provide, a customer consultative group must meet at least twice a year.
- (3) In all other respects, the constitution and procedure of a customer consultative group are to be as determined by the electricity distributor.

## **91 Functions of customer consultative groups**

- (1) A customer consultative group has such functions as are conferred or imposed on it by this Act or the regulations.
- (2) Except to the extent to which the regulations otherwise provide, the function of a customer consultative group is to provide information and advice on the following matters to the electricity distributor by which it is appointed:
  - (a) the form and content of the electricity distributor's standard form customer connection contracts and standard form customer supply contracts, and any amendments to those contracts,
  - (b) the effect on retail customers within its distribution district of any proposed changes in the way in which the electricity distributor operates,

- (c) any improvements in the way in which the electricity distributor operates that the customer consultative group believes would benefit retail customers within its distribution district,
- (d) such other matters as the electricity distributor and the customer consultative group agree should be the subject of such advice.

## **Division 5 General**

### **92 Non-franchise customers**

- (1) The Minister may, by order published in the Gazette, declare any specified person, or any specified class of persons, to be non-franchise customers for the purposes of this Act.
- (2) An order under this section takes effect on the day on which it is published in the Gazette or on such later day as is specified in the order.
- (3) Subject to the regulations, the Minister may not make an order under this section unless:
  - (a) notice of the proposal to make the order has been published in a daily newspaper circulating throughout New South Wales, and
  - (b) a report on any submissions received with respect to the proposed order has been prepared.
- (4) The notice referred to in subsection (3) (a) must indicate:
  - (a) the nature of the proposed order, and
  - (b) where submissions on the proposed order should be lodged, and
  - (c) the time (being not less than 21 days from the date on which the notice is published) within which any such submissions should be lodged, and
  - (d) such other matters as may be prescribed by the regulations.
- (5) The report referred to in subsection (3) (b):
  - (a) must summarise the substance of the submissions received by the Minister in connection with the proposed order, and



- (b) must contain such other information as may be prescribed by the regulations, and
- (c) must be kept available at the head office of the Department of Energy for inspection by members of the public, free of charge, during normal office hours.

### **93 Transmission systems**

- (1) The Minister may, by order published in the Gazette, declare any specified electricity power lines and associated equipment and electricity structures to be a transmission system for the purposes of this Act.
- (2) An order under this section takes effect on the day on which it is published in the Gazette or on such later day as is specified in the order.

### **94 Authorised officers**

- (1) A network operator may, in accordance with any guidelines in force under this section, appoint authorised officers for the purposes of this Act.
- (2) An authorised officer has such of the functions of the network operator by which he or she is appointed as are specified in the authorised officer's instrument of appointment.
- (3) An authorised officer appointed by an electricity distributor may exercise those functions only within the distribution district of the electricity distributor by which he or she is appointed.
- (4) The Minister may, by order published in the Gazette, establish guidelines for the appointment of authorised officers.
- (5) An order under this section takes effect on the day on which it is published in the Gazette or on such later day as is specified in the order.

## **Part 8      Appeals and resolution of disputes**

### **95   Appeals against decisions concerning authorisations and licences**

- (1) An applicant under Schedule 1 or 2 who is aggrieved by any of the following decisions of the Minister under that Schedule may appeal to the Supreme Court against the decision:
  - (a) a decision cancelling an authorisation or licence,
  - (b) a decision imposing a condition on an authorisation or licence (other than a condition imposed when the authorisation or licence is granted),
  - (c) a decision varying the conditions of an authorisation or licence,
  - (d) a decision refusing an application for the transfer of an authorisation or licence,
  - (e) a decision imposing a monetary penalty on the holder of an authorisation or licence.
- (2) An appeal is to be by way of a new hearing and fresh evidence, or evidence in addition to or in substitution for the evidence on which the decision was made, may be given on the appeal.
- (3) For the purposes of an appeal, the Minister may certify in writing that a specified policy applies to the subject matter of the appeal.
- (4) In deciding an appeal to which such a certificate relates, the Supreme Court is required to apply the policy so certified, except to the extent to which the application of that policy would be contrary to law.
- (5) The decision of the Supreme Court in respect of an appeal is taken to be the decision of the Minister and is to be given effect to accordingly.

### **96   Customers may appeal against certain decisions**

- (1) Any person may appeal against:
  - (a) the decision of an electricity distributor as to a charge payable by the person under a standard form customer connection contract, or

- (b) the decision of a retail supplier as to:
  - (i) the supplier's classification of the person as a franchise or non-franchise customer, or
  - (ii) a charge payable by the person under a standard form customer supply contract.
- (2) The procedures for making an appeal and for dealing with an appeal are to be as prescribed by the regulations.
- (3) Without limitation, the regulations may provide for the following matters:
  - (a) the summary dismissal of appeals,
  - (b) the referral of appeals to an arbitrator,
  - (c) the application to the matters raised by an appeal of principles determined by the Minister,
  - (d) the arbitrator's decision on an appeal to be final and binding on the parties to the appeal,
  - (e) the costs of arbitrating an appeal and the apportionment of those costs between the parties to the appeal.
- (4) This section does not apply to any matter in respect of which a consumer claims tribunal has jurisdiction under the *Consumer Claims Tribunals Act 1987*.

#### **97 Resolution of disputes between public authorities**

- (1) Any dispute arising under this Act between 2 or more public authorities may be resolved by agreement between the Ministers responsible for those authorities or, if agreement cannot be reached, by the Premier.
- (2) A public authority must comply with any direction arising out of the resolution of the dispute under this section.
- (3) This section does not apply while any other remedy is available under this Act for the resolution of the dispute.



## Part 9      Miscellaneous

### 98    Unauthorised electricity supply arrangements unenforceable

An electricity supply arrangement is unenforceable by any person (other than a retail customer under a customer supply contract) unless, at the time the person entered into the arrangement, the person was authorised by an authorisation or licence to enter into the arrangement.

### 99    Customer connection contracts and customer supply contracts may be one document

Nothing in this Act prevents a customer connection contract and a customer supply contract from being embodied in a single document.

### 100   Delegation of Minister's functions

- (1) The Minister may delegate to any eligible person any of the functions conferred or imposed on the Minister by or under this Act, other than this power of delegation.
- (2) In this section, *eligible person* means:
  - (a) any public authority, or
  - (b) any person prescribed by the regulations or belonging to a class of persons prescribed by the regulations.

### 101   Directors and managers liable for offences committed by corporations

- (1) If a corporation contravenes a provision of this Act or the regulations, each person who:
  - (a) is a director of the corporation, or
  - (b) is concerned in the management of the corporation,is to be treated as having contravened that provision if the person knowingly authorised or permitted the contravention.
- (2) A person may, under this section, be proceeded against and convicted for a contravention of that provision whether or not the corporation has been proceeded against or convicted for a contravention of that provision.

- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

#### **102 Proceedings for offences**

- (1) Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.
- (2) Proceedings for an offence against this Act may instead be dealt with summarily before the Supreme Court in its summary jurisdiction.
- (3) Proceedings for an offence against this Act or the regulations may be instituted at any time within 2 years after the commission of the offence.
- (4) The maximum penalty that may be imposed by a Local Court in proceedings for an offence against this Act or the regulations is 100 penalty units (in the case of a corporation) and 50 penalty units (in any other case).
- (5) The maximum penalty that may be imposed by the Supreme Court in proceedings for an offence against this Act is the maximum penalty specified by the relevant section in respect of the offence.

#### **103 Recovery of monetary penalties**

Any monetary penalty imposed by the Minister on the holder of an authorisation may be recovered in any court of competent jurisdiction as a debt due to the Crown.

#### **104 Recovery of charges by network operators and wholesale or retail suppliers**

Any money due to a network operator or a wholesale or retail supplier may be recovered by it as a debt in any court of competent jurisdiction.

#### **105 Application of Act outside local government areas**

- (1) This Act applies to the unincorporated area as if:
  - (a) references to a local government area were references to the unincorporated area, and



- (b) references to a local council were references to the Western Lands Commissioner.
- (2) This Act applies to Lord Howe Island as if:
  - (a) references to a local government area were references to Lord Howe Island, and
  - (b) references to a local council were references to the Lord Howe Island Board.
- (3) The regulations may exempt the Lord Howe Island Board, and any matter relating to this Act in its application to Lord Howe Island, from the operation of any specified provision of this Act.

## **106 Regulations**

- (1) The Governor may make regulations not inconsistent with this Act for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to the following matters:
  - (a) the functions of the Market and System Operator,
  - (b) the functions of customer consultative groups,
  - (c) the form, content and procedures for preparing and advertising standard form customer connection contracts and standard form customer supply contracts,
  - (d) the conditions that may be imposed on authorisations and licences,
  - (e) the functions of authorised officers,
  - (f) the records to be kept by network operators and wholesale and retail suppliers,
  - (g) the procedures to be observed by network operators in connection with calling for tenders and the matters in respect of which network operators must call for tenders,
  - (h) the removal or trimming of trees by electricity distributors,
  - (i) matters of a savings or transitional nature consequent on the making of an order under section 92.
- (2) The regulations may exempt:
  - (a) any specified person or class of persons, or

- (b) any specified matter or class of matters,  
from the operation of any one or more of sections 6, 8, 12 (a),  
13, 16, 17 and 98.
- (3) A regulation may create an offence punishable by a penalty not  
exceeding 100 penalty units (in the case of a corporation) and 25  
penalty units (in any other case).

### **107 Repeals**

- (1) The *Sydney Electricity Act 1990* is repealed.
- (2) The following regulations are repealed:
  - (a) *Sydney Electricity (Amalgamation of Electricity Distributors) (Transitional) Regulation 1995*,
  - (b) *Sydney Electricity (Supply) Regulation 1992*.

### **108 Amendment of other Acts and instruments**

Each Act and instrument specified in Schedule 5 is amended as  
set out in that Schedule.

### **109 Savings, transitional and other provisions**

Schedule 6 has effect.

### **110 Review of Act**

- (1) The Minister is to review this Act to determine whether the  
policy objectives of the Act remain valid and whether the terms  
of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the  
period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each  
House of Parliament within 12 months after the end of the period  
of 5 years.

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## **Schedule 1 Authorisations**

(Sections 7 and 10)

### **1 Authorisations**

- (1) Subject to any conditions imposed by or under this Act, a network operator's authorisation authorises its holder, and any other person specified in the authorisation, to operate the transmission or distribution system so specified for the purpose of conveying electricity for or on behalf of wholesale traders.
- (2) Subject to any conditions imposed by or under this Act, a wholesale trader's authorisation authorises its holder, and any other person specified in the authorisation:
  - (a) to enter into wholesale supply arrangements, or
  - (b) to buy, sell or otherwise deal in rights to the supply of electricity arising under wholesale supply arrangements, as so specified.

### **2 Applications**

- (1) An application for an authorisation or for the transfer of an authorisation:
  - (a) must be accompanied by such fee as may be determined by the Minister, and
  - (b) must contain such information as may be determined by the Minister, and
  - (c) must be lodged with the Market and System Operator.
- (2) An application for a wholesale trader's authorisation or for the transfer of a wholesale trader's authorisation (being an authorisation that authorises the proposed holder of the authorisation to enter into wholesale supply arrangements as a wholesale customer) may be made only by a non-franchise customer.

### **3 Preliminary consideration of applications**

The Market and System Operator must consider any application made in relation to an authorisation and recommend to the Minister the action that the Minister should take on the application.



#### **4 Determination of applications**

- (1) The Minister may determine an application for an authorisation or for the transfer of an authorisation by granting or transferring the authorisation (either unconditionally or subject to conditions of the kind referred to in clause 6) or by refusing the application.
- (2) An application may be refused on the following grounds:
  - (a) that the proposed holder of the authorisation fails to satisfy such technical or prudential criteria as have been adopted by the Minister to determine whether a person is able to operate a viable business as a network operator or wholesale trader, as the case may be,
  - (b) such grounds as may be prescribed by the regulations,
  - (c) such grounds as the Minister considers relevant, having regard to the need to promote a competitive wholesale market for electricity, to prevent misuse of market power and to ensure the security and reliability of the State electricity supply system.
- (3) The Minister must have regard to, but is not bound by, any recommendation under clause 3.

#### **5 Duration of authorisations**

Subject to the conditions imposed on it, an authorisation remains in force until it is cancelled.

#### **6 Conditions of authorisations**

- (1) An authorisation is subject to the following conditions:
  - (a) the conditions imposed by this Act and the regulations,
  - (b) such other conditions (not inconsistent with those imposed by this Act and the regulations) as the Minister may from time to time impose in relation to the authorisation.
- (2) Without limitation, the Minister may impose the following kinds of conditions on an authorisation:
  - (a) a condition specifying the period for which the authorisation is to remain in force,

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- (b) a condition requiring the holder of the authorisation to exercise its functions under this Act in accordance with specified guidelines or subject to specified restrictions,
  - (c) a condition requiring the holder of the authorisation to continue to satisfy such technical or prudential criteria as have been adopted by the Minister to determine whether a person is able to operate a viable business as a network operator or wholesale trader, as the case may be,
  - (d) a condition requiring the holder of the authorisation to maintain specified insurance cover in respect of specified risks,
  - (e) a condition requiring the affairs of the holder of the authorisation in relation to the operation of a transmission or distribution system to be kept separate, to the extent specified in the condition, from the affairs of the holder of the authorisation in relation to the supply of electricity,
  - (f) a condition requiring the holder of the authorisation:
    - (i) to prepare, and submit to the Minister, a plan setting out (in accordance with guidelines established by the Minister) the holder's policies, practices and procedures with respect to the conduct of its affairs under the authorisation, and
    - (ii) to conduct its affairs under the authorisation in accordance with the plan so prepared,
  - (g) a condition requiring the holder of the authorisation to furnish to the Minister (at such times and in respect of such periods as the Minister may determine) such information as the Minister may determine to enable the Minister to ascertain whether or not the holder is complying with the other conditions of the authorisation.
- (3) A condition referred to in subclause (2) (e) may require separate affairs to be conducted by separate divisions of the same legal entity or by separate legal entities.



## **7 Variation of conditions of authorisations**

On the recommendation of the Market and System Operator, the Minister may vary the conditions of an authorisation.

## **8 Enforcement of authorisations**

- (1) On the recommendation of the Market and System Operator, the Minister may do either or both of the following:
  - (a) the Minister may impose a monetary penalty not exceeding \$100,000 on the holder of an authorisation,
  - (b) the Minister may cancel an authorisation.
- (2) Action may be taken under this clause only if the holder of the authorisation has knowingly contravened:
  - (a) the requirements of this Act or the regulations, or
  - (b) the conditions of the authorisation.

## **9 Holder of authorisation to be notified of proposed action**

The Minister must not take action under clause 6, 7 or 8 unless:

- (a) notice of the proposed action has been given to the holder of the authorisation, and
- (b) the holder of the authorisation has been given a reasonable opportunity to make submissions with respect to the proposed action, and
- (c) the Minister has given due consideration to any such submissions.

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## **Schedule 2 Licences**

(Sections 14 and 33)

### **1 Licences**

- (1) Subject to any conditions imposed by or under this Act, an electricity distributor's licence authorises its holder, and any other person specified in the licence, to operate the distribution system so specified for the purpose of conveying electricity for or on behalf of retail suppliers.
- (2) Subject to any conditions imposed by or under this Act, a retail supplier's licence authorises its holder, and any other person specified in the licence, to supply electricity to retail customers.

### **2 Applications**

An application for a licence or for the transfer of a licence:

- (a) must be accompanied by such fee as may be determined by the Minister, and
- (b) must contain such information as may be determined by the Minister, and
- (c) must be lodged with the Minister.

### **3 Public consultation**

- (1) Before determining an application for a licence or for the transfer of a licence, the Minister must cause notice of the application to be published in the Gazette and in a daily newspaper circulating throughout the State.
- (2) The notice must indicate:
  - (a) the nature of the licence to which the application relates, and
  - (b) the identity of the proposed holder of the licence, and
  - (c) the area in which the licence, if granted or transferred, would operate, and
  - (d) where submissions on the application should be lodged, and

- (e) the time (being not less than 40 days from the date on which the notice is published) within which any such submissions should be lodged, and
  - (f) such other matters as may be prescribed by the regulations.
- (3) The Minister must give due consideration to matters arising from any submissions under this clause.
- (4) The Minister must cause a report summarising the substance of any submissions received with respect to an application for a licence to be prepared.
- (5) The report:
  - (a) must indicate the Minister's decision with respect to the application, and
  - (b) must contain such other information as may be prescribed by the regulations, and
  - (c) must be kept available at the head office of the Department of Energy for inspection by members of the public, free of charge, during normal office hours.

#### **4 Determination of applications**

- (1) The Minister may determine an application for a licence or for the transfer of a licence by granting or transferring the licence (either unconditionally or subject to conditions of the kind referred to in clause 6) or by refusing the application.
- (2) An application may be refused on the following grounds:
  - (a) that the proposed holder of the licence fails to satisfy such technical or prudential criteria as have been adopted by the Minister to determine whether a person is able to operate a viable business as an electricity distributor or retail supplier, as the case may be,
  - (b) such grounds as may be prescribed by the regulations,
  - (c) such grounds as the Minister considers relevant, having regard to the need to promote a competitive retail market for electricity, to prevent misuse of market power and to ensure the security and reliability of the State electricity supply system.



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- (3) The Minister must consult with the Minister administering the *Protection of the Environment Administration Act 1991* before granting a licence under this clause.

## **5 Duration of licences**

Subject to the conditions imposed on it, a licence remains in force until it is cancelled.

## **6 Conditions of licences**

- (1) A licence is subject to the following conditions:
- (a) the conditions imposed by this Act and the regulations,
  - (b) such other conditions (not inconsistent with those imposed by this Act and the regulations) as the Minister may from time to time impose in relation to the licence.
- (2) Without limitation, the Minister may impose the following kinds of conditions on a licence:
- (a) a condition specifying the period for which the licence is to remain in force,
  - (b) a condition requiring the holder of the licence to exercise its functions under this Act in accordance with specified guidelines or subject to specified restrictions,
  - (c) a condition requiring the holder of the licence to continue to satisfy such technical or prudential criteria as have been adopted by the Minister to determine whether a person is able to operate a viable business as an electricity distributor or retail supplier, as the case may be,
  - (d) a condition requiring the holder of the licence to maintain specified insurance cover in respect of specified risks,
  - (e) a condition requiring the affairs of the holder of the licence in relation to the operation of a distribution system to be kept separate, to the extent specified in the condition, from the affairs of the holder of the licence in relation to the supply of electricity,

- (f) a condition requiring the holder of the licence:
  - (i) to prepare, and submit to the Minister, a plan setting out (in accordance with guidelines established by the Minister) the holder's policies, practices and procedures with respect to the conduct of its affairs under the licence, and
  - (ii) to conduct its affairs under the licence in accordance with the plan so prepared,
- (g) a condition requiring the holder of the licence to furnish to the Minister (at such times and in respect of such periods as the Minister may determine) such information as the Minister may determine to enable the Minister to ascertain whether or not the holder is complying with the other conditions of the licence.
- (3) A condition referred to in subclause (2) (e) may require separate affairs to be conducted by separate divisions of the same legal entity or by separate legal entities.
- (4) Without limitation, the Minister must impose the following conditions on each retail supplier's licence:
  - (a) a condition requiring the holder of the licence to develop strategies of the kind referred to in subsection (6),
  - (b) a condition requiring the auditing by the Environment Protection Authority, at intervals of no more than 3 years, of effectiveness of the strategies referred to in paragraph (a),
  - (c) a condition requiring the holder of the licence to develop 1, 3 and 5 year plans for:
    - (i) energy efficiency and demand management strategies, and
    - (ii) strategies for purchasing energy from sustainable sources, including consideration of cogeneration, purchasing of renewable energy, buy-back schemes from grid-connected solar cells on buildings and remote area power systems.



- 
- (d) a condition requiring the holder of the licence to prepare and publish annual reports in relation to the following matters:
- (i) the implementation of its demand management strategies,
  - (ii) the carbon dioxide emissions arising from the production of electricity supplied by it, as measured in accordance with a methodology approved by the Minister after consultation with the Environment Protection Authority,
  - (iii) its performance in meeting the minimum standards of service required under its standard form customer supply contracts,
  - (iv) the sources of the electricity supplied by it and the quantity of electricity supplied from those sources as proportions of the total electricity supplied by it.
- (5) Without limitation, the Minister must impose the following conditions on each electricity distributor's licence:
- (a) a condition requiring the holder of the licence, before expanding its distribution system or the capacity of its distribution system, to carry out investigations (being investigations to ascertain whether it would be cost-effective to avoid or postpone the expansion by implementing demand management strategies) in circumstances in which it would be reasonable to expect that it would be cost-effective to avoid or postpone the expansion by implementing such strategies,
  - (b) a condition requiring the holder of the licence to prepare and publish annual reports in relation to the investigations carried out by it as referred to in paragraph (a).
- (6) The strategies referred to in subclause (4) (a):
- (a) must be based on the principle of achieving the reduction of greenhouse gas emissions, from electricity supplied to customers in New South Wales, as the electricity sector's contribution to achieving the target of reducing greenhouse gas emissions, as agreed in the National Greenhouse Response Strategy 1992 and the
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InterGovernmental Agreement on the Environment, or as determined by the Council of Australian Governments, and

- (b) must be arrived at by negotiation with the Minister, and must include independent verification of emissions.
- (7) A report on each audit prepared by the Environment Protection Authority as referred to in subclause (4) (b):
  - (a) must be made publicly available at the offices of the Environment Protection Authority, and
  - (b) must be sent to the Licence Compliance Advisory Board, and
  - (c) must be tabled in each House of Parliament.
- (8) The Minister must review the conditions referred to in subclause (4) (a), (b) and (c) at the end of the period of 3 years after the conditions are imposed in order to assess the environmental performances of the holder of the licence and the environmental consequences of its work and activities.
- (9) The Minister must consult with the Minister administering the *Protection of the Environment Administration Act 1991* before imposing conditions on a licence under this clause.

## **7 Variation of conditions of licences**

- (1) The Minister may vary the conditions of a licence.
- (2) The Minister must consult with the Minister administering the *Protection of the Environment Administration Act 1991* before varying the conditions of a licence under this clause.

## **8 Enforcement of licences**

- (1) The Minister may do either or both of the following:
  - (a) the Minister may impose a monetary penalty not exceeding \$100,000 on the holder of a licence,
  - (b) the Minister may cancel a licence.
- (2) A retail supplier's licence held by an electricity distributor must not be cancelled unless the electricity distributor's licence held by the electricity distributor is also cancelled.

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- (3) Action may be taken under this clause only if the holder of the licence has knowingly contravened:
- (a) the requirements of this Act or the regulations, or
  - (b) the conditions of the licence.

#### **9 Holder of licence to be notified of proposed action**

The Minister must not take action under clause 6, 7 or 8 unless:

- (a) notice of the proposed action has been given to the holder of the licence, and
- (b) the holder of the licence has been given a reasonable opportunity to make submissions with respect to the proposed action, and
- (c) the Minister has given due consideration to any such submissions.

#### **10 Register of licences**

- (1) The Minister is to cause a register of licences to be kept at the head office of the Department of Energy.
- (2) The register is to be kept available for inspection by members of the public, free of charge, during normal office hours.
- (3) Copies of entries in the register are to be made available to members of the public, at cost, during normal office hours.

**Schedule 3 Distribution districts**

(Sections 83 and 84)

| <b>Name</b>            | <b>Distribution district</b> |                            |
|------------------------|------------------------------|----------------------------|
| Energy South           | Albury                       | Hume                       |
|                        | Bega Valley                  | Jerilderie                 |
|                        | Berrigan                     | Junee                      |
|                        | Bland                        | Leeton                     |
|                        | Bombala                      | Lockhart                   |
|                        | Boorowa                      | Mulwaree                   |
|                        | Carrathool                   | Murray                     |
|                        | Conargo                      | Murrumbidgee               |
|                        | Coolamon                     | Narrandera                 |
|                        | Cooma-Monaro                 | Queanbeyan                 |
|                        | Cootamundra                  | Snowy River                |
|                        | Corowa                       | Tallaganda                 |
|                        | Crookwell                    | Temora                     |
|                        | Culcairn                     | Tumbarumba                 |
|                        | Deniliquin                   | Tumut                      |
|                        | Eurobodalla                  | Urana                      |
|                        | Goulburn                     | Wagga Wagga                |
|                        | Griffith                     | Wakool (part)              |
|                        | Gundagai                     | Windouran (part)           |
|                        | Gunning                      | Yarrowlumla                |
|                        | Harden                       | Yass                       |
|                        | Hay                          | Young                      |
|                        | Holbrook                     |                            |
| Far West Energy        | Balranald                    | Wentworth                  |
|                        | Broken Hill                  | Windouran (part)           |
|                        | Central Darling              | Unincorporated area (part) |
|                        | Wakool (part)                |                            |
| Lord Howe Island Board | Lord Howe Island             |                            |



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| Name            | Distribution district |                |
|-----------------|-----------------------|----------------|
| MetNorth Energy | Ashfield              | Merriwa (part) |
|                 | Auburn                | Mosman         |
|                 | Bankstown             | Muswellbrook   |
|                 | Botany                | Newcastle      |
|                 | Burwood               | North Sydney   |
|                 | Canterbury            | Pittwater      |
|                 | Cessnock              | Port Stephens  |
|                 | Concord               | Randwick       |
|                 | Drummoyne             | Rockdale       |
|                 | Gosford               | Ryde           |
|                 | Hornsby               | Scone          |
|                 | Hunters Hill          | Singleton      |
|                 | Hurstville            | South Sydney   |
|                 | Kogarah               | Strathfield    |
|                 | Ku-ring-gai           | Sutherland     |
|                 | Lake Macquarie        | Sydney         |
|                 | Lane Cove             | Warringah      |
|                 | Leichhardt            | Waverley       |
|                 | Maitland              | Willoughby     |
|                 | Manly                 | Woollahra      |
|                 | Marrickville          | Wyong          |
| MetSouth Energy | Baulkham Hills        | Liverpool      |
|                 | Blacktown             | Parramatta     |
|                 | Blue Mountains        | Penrith        |
|                 | Camden                | Rylstone       |
|                 | Campbelltown          | Shellharbour   |
|                 | Fairfield             | Shoalhaven     |
|                 | Greater Lithgow       | Wingecarribee  |
|                 | Hawkesbury            | Wollondilly    |
|                 | Holroyd               | Wollongong     |
|                 | Kiama                 |                |

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## Schedule 3 Distribution districts

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| Name              | Distribution district |                            |
|-------------------|-----------------------|----------------------------|
| MidState Energy   | Bathurst              | Gilgandra                  |
|                   | Blayney               | Lachlan                    |
|                   | Bogan                 | Merriwa (part)             |
|                   | Cabonne               | Mudgee                     |
|                   | Cobar                 | Narromine                  |
|                   | Coolah                | Oberon                     |
|                   | Coonabarabran         | Orange                     |
|                   | Coonamble             | Parkes                     |
|                   | Cowra                 | Warren                     |
|                   | Dubbo                 | Weddin                     |
|                   | Evans                 | Wellington                 |
|                   | Forbes                |                            |
| NorthPower Energy | Armidale              | Kyogle                     |
|                   | Ballina               | Lismore                    |
|                   | Barraba               | Maclean                    |
|                   | Bellingen             | Manilla                    |
|                   | Bingara               | Moree Plains               |
|                   | Bourke                | Murrurundi                 |
|                   | Brewarrina            | Nambucca                   |
|                   | Byron                 | Narrabri                   |
|                   | Casino                | Nundle                     |
|                   | Coffs Harbour         | Nymboida                   |
|                   | Copmanhurst           | Parry                      |
|                   | Dumaresq              | Quirindi                   |
|                   | Dungog                | Richmond River             |
|                   | Glen Innes            | Severn                     |
|                   | Gloucester            | Tamworth                   |
|                   | Grafton               | Tenterfield                |
|                   | Great Lakes           | Tweed                      |
|                   | Greater Taree         | Ulmarra                    |
|                   | Gunnedah              | Uralla                     |
|                   | Guyra                 | Walcha                     |
|                   | Hastings              | Walgett                    |
|                   | Inverell              | Yallaroi                   |
|                   | Kempsey               | Unincorporated area (part) |

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## **Schedule 4    Transfer of staff, assets, rights and liabilities**

(Section 85)

### **1    Application and interpretation**

- (1)    This Schedule applies to any transfer of staff, assets, rights or liabilities under section 85.
- (2)    In this Schedule, the person or body from which any staff, assets, rights or liabilities are transferred is called the transferor and the person or body to whom they are transferred is called the transferee.

### **2    Transfer of staff**

A member of staff who is transferred by a transfer to which this Schedule applies is (until other provision is duly made under any Act or law) to be employed in accordance with any relevant statutory provisions, awards, agreements and determinations that would have applied to the person had the person not been transferred but remained a member of staff of the transferor.

### **3    Vesting of undertaking in transferee**

- (1)    When any assets, rights or liabilities are transferred by a transfer to which this Schedule applies, the following provisions have effect:
  - (a)    the assets of the transferor vest in the transferee by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
  - (b)    the rights or liabilities of the transferor become by virtue of this clause the rights or liabilities of the transferee,
  - (c)    all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee,

Schedule 4 Transfer of staff, assets, rights and liabilities

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- (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee,
  - (e) a reference in any Act, in any instrument made under any Act or in any document of any kind to the transferor or a predecessor of the transferor is (to the extent to which it relates to those assets, rights or liabilities) taken to include a reference to the transferee.
- (2) The operation of this clause is not to be regarded:
- (a) as a breach of contract or confidence or otherwise as a civil wrong, or
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
  - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (3) The operation of this clause is not to be regarded as an event of default under any contract or other instrument.
- (4) No attornment to the transferee by a lessee from the transferor is required.
- (5) A transfer is subject to the terms and conditions of the order by which it is effected.
- (6) No compensation is payable to any person or body in connection with a transfer to which this Schedule applies except to the extent (if any) to which the order giving rise to the transfer so provides.
- (7) Subclause (6) does not affect the rights of any member of staff who is the subject of a transfer to which this Schedule applies.

#### **4 Date of vesting**

A transfer to which this Schedule applies takes effect on the date specified in the order by which it is effected.

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## 5 Consideration for vesting

The Minister may, by order in writing, specify the consideration on which a transfer to which this Schedule applies is made and the value or values at which the assets, rights or liabilities are transferred.

## 6 Stamp duty

Stamp duty is not chargeable for or in respect of:

- (a) a transfer to which this Schedule applies, or
- (b) anything certified by the Minister as having been done in consequence of such a transfer (for example, the transfer or conveyance of an interest in land).

## 7 Confirmation of vesting

- (1) The Minister may, by notice in writing, confirm a transfer of particular assets, rights or liabilities by operation of this Schedule.
- (2) Such a notice is conclusive evidence of that transfer.

## 8 Definitions

In this Schedule:

**assets** means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

**liabilities** means any liabilities, debts or obligations (whether present or future and whether vested or contingent).

**rights** means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent).



## **Schedule 5 Amendment of other Acts and instruments**

(Section 108)

### **5.1 Electricity Act 1945 (1946 No 13)**

#### **[1] Section 1 Short title**

Omit the section. Insert instead:

##### **1 Short title**

This Act is the *Electricity Safety Act 1945*.

#### **[2] Section 2**

Omit the section.

#### **[3] Section 4 Definitions**

Omit the definition of *Electricity Council* from section 4 (1).

#### **[4] Section 4 (1)**

Omit paragraph (c) from the definition of *Electricity supply authority*.

#### **[5] Parts 2, 2A, 3AA, 3A, 3B, 3C, 4, 4A, 5A, 6 and 6A**

Omit the Parts.

#### **[6] Section 6FB Water supply functions conferred on electricity distributors**

Insert after section 6FB (5):

- (6) Subject to the terms of the order by which any staff, assets, rights or liabilities are transferred under this section:



- 
- (a) this section applies to the person or body to which any such staff, assets, rights or liabilities are transferred in the same way as it applies to the electricity distributor from which the staff, assets, rights or liabilities were transferred, and
  - (b) the person or body to which any such staff, assets, rights or liabilities are transferred is taken to be an electricity distributor for the purposes of this section and to be an electricity distributor exercising water supply functions under this Act for the purposes of any other Act or law in which that expression occurs.

**[7] Section 9 Additional functions of Energy Corporation**

Omit section 9 (1) (a) (i)–(vi) and (2).

**[8] Sections 13A, 13B and 14**

Omit the sections.

**[9] Section 25 Power of entry**

Omit “or by any electricity distributor or Sydney Electricity” from section 25 (1).

**[10] Section 25 (4)**

Omit “or an electricity distributor or Sydney Electricity”.

**[11] Section 30 Theft of electricity**

Omit the section.

**[12] Section 37 Regulations**

Omit section 37 (2) (a1), (a2), (b1), (c1), (e), (e1), (e2), (g), (ee), (ff), (gg), (ii), (jj), (kk), (ll), (mm), (nn) and (rr).

**[13] Section 37 (2) (qq)**

Omit "or Sydney Electricity".

**[14] Schedules 1, 2, 3, 7, 8 and 10**

Omit the Schedules.

**[15] Schedule 11 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Electricity Supply Act 1995.*

**[16] Schedule 11, Part 6**

Insert after Part 5:

**Part 6 Provisions consequent on the enactment of  
Electricity Supply Act 1995**

**23 Abolition of the Electricity Council**

- (1) The Electricity Council is abolished.
- (2) Part 8 of the *Public Sector Management Act 1988* applies to each member of the Electricity Council as if the member had been removed from office by the Governor under section 90 of that Act.

**24 Abolition of Electricity Development Fund**

- (1) The Electricity Development Fund is abolished.

- 
- (2) The assets of the Electricity Development Fund become part of the Consolidated Fund.

**25 Continuation of Part 3AA of the former Act**

Part 3AA continues to apply to and in respect of an electricity supply authority within the meaning of that Part in relation to any insurance policy or self-insurance scheme referred to in section 14AAA that was in force immediately before the repeal of that Part.

**26 Continuation of Part 3A of the former Act**

Part 3A continues to apply to and in respect of any account rendered by an electricity supply authority in relation to an accounting period that commenced before the repeal of that Part.

**27 References in other legislation**

A reference in any other Act or instrument to the *Electricity Act 1945* is to be read as a reference to the *Electricity Safety Act 1945*.

**5.2 Electricity (Pacific Power) Act 1950 No 22**

**[1] Section 3 Definitions**

Omit the definitions of *By-laws* and *Prescribed* from section 3 (1).

**[2] Section 3 (1)**

Omit paragraph (b) of the definition of *Electricity supply authority*.  
Insert instead:

- (b) an electricity distributor within the meaning of the *Electricity Supply Act 1995*, or

**[3] Section 3 (1)**

Omit paragraph (c) of the definition of *Electricity supply authority*.

**[4] Part 2, heading**

Omit "THE COMMISSION". Insert instead "PACIFIC POWER".

**[5] Part 3, heading**

Omit "THE COMMISSION". Insert instead "PACIFIC POWER".

**[6] Section 9 Principal functions of Pacific Power**

Omit section 9 (2).

**[7] Section 12 Commission to supply sufficient electricity for railways and road transport**

Omit the section.

**[8] Part 3, Division 6**

Omit the Division.

**[9] Part 4 Acquisition of electricity undertakings**

Omit the Part.

**[10] Section 55**

Omit the section.

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**[11] Section 66 Employees guilty of misconduct**

Omit "or by-law" from section 66 (1).

**[12] Section 66 (1)**

Omit "by-law,".

**[13] Section 73B Public sector executives**

Omit "or by-laws".

**[14] Part 8, Division 1**

Omit the Division (section 83 excepted).

**[15] Section 83 No compensation in respect of failure of supply**

Insert at the end of the section:

- (2) This section does not apply to the extent to which liability is imposed on Pacific Power by or under the *Electricity Supply Act 1995*.

**[16] Part 8, Division 2, heading**

Omit "and By-laws".

**[17] Section 88 By-laws**

Omit the section.

**[18] Section 89 Penalty for breach of regulations**

Omit "or by-law".



**[19] Section 90 Application of regulations**

Omit "or by-law" from section 90 (2).

**[20] Section 95 Recovery of penalties**

Omit "or by-laws" from section 95 (1).

**[21] Section 96 Recovery of charges**

Omit "or any by-law".

**[22] Schedule 7 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Electricity Supply Act 1995.*

**5.3 Electricity Transmission Authority Act 1994 No 64**

**[1] Section 3 Definitions**

Omit the definition of *electricity supply authority*. Insert instead:

*electricity distributor* has the same meaning as it has in the *Electricity Supply Act 1995*.

*electricity generator* has the same meaning as it has in the *Electricity Supply Act 1995*.

*electricity supply authority* means an electricity generator or an electricity distributor.

**[2] Section 5 Ministerial control**

Omit section 5 (8) (a).

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**[3] Section 6 Principal functions of the Authority**

Omit section 6 (d) and (e1).

**[4] Sections 7, 8 and 10**

Omit the sections.

**[5] Section 25 Application of certain provisions to subsidiary companies**

Omit section 25 (1) (b).

**[6] Section 32 Establishment of Funds**

Omit section 32 (b), (c) and (d).

**[7] Section 33 Transmission Authority General Fund**

Omit “, other than money that is required to be paid into the System Control Fund, the Market Operations Fund or the Market Settlements Fund” from section 33 (1) (a).

**[8] Section 33 (2) (a)**

Omit “(other than staff engaged in system control or in the development, implementation, operation or administration of the wholesale market for electricity)”.

**[9] Sections 34, 34A and 34B**

Omit the sections.

**[10] Section 38 No liability for failure to supply**

Insert “and except to the extent that liability is imposed on the Authority (whether in relation to its functions as a network operator or as the Market and System Operator) by or under the *Electricity Supply Act 1995*” after “agrees” in section 38 (1).

**[11] Sections 39, 41, 43 and 44**

Omit the sections.

**[12] Schedule 2A Further savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Electricity Supply Act 1995.*

**[13] Schedule 2A, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of  
Electricity Supply Act 1995**

**5 Abolition of System Control Fund**

- (1) The System Control Fund is abolished.
- (2) On the commencement of this clause, the assets of the System Control Fund become assets of the System Control Fund established under the *Electricity Supply Act 1995*.

**6 Abolition of Market Operations Fund**

- (1) The Market Operations Fund is abolished.
- (2) On the commencement of this clause, the assets of the Market Operations Fund become assets of the Market Operations Fund established under the *Electricity Supply Act 1995*.

**7 Abolition of Market Settlements Fund**

- (1) The Market Settlements Fund is abolished.
- (2) On the commencement of this clause, the assets of the Market Settlements Fund become assets of the Market Settlements Fund established under the *Electricity Supply Act 1995*.

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**5.4 Energy Administration Act 1987 No 103**

**[1] Section 3 Definitions**

Omit “, holding office as such under the *Public Service Act 1979*” from the definition of *Director* in section 3 (1).

**[2] Section 9 Staff**

Omit “*Public Service Act 1979*” from section 9 (1).  
Insert instead “*Public Sector Management Act 1988*”.

**[3] Section 12 Functions**

Omit section 12 (e).

**[4] Section 28 Appointment of qualified person to investigate certain industrial matters**

Omit the definition of *industrial matter* in section 28 (1).  
Insert instead:

*industrial matter* has the meaning ascribed to the expression *industrial matters* by section 4 (1) of the *Industrial Relations Act 1991*.

**[5] Section 35 Energy Administration Account**

Omit section 35 (2) (c).

**[6] Section 37 Operation of certain other Acts**

Omit “*State Emergency Services and Civil Defence Act 1972*” from section 37 (1).  
Insert instead “*State Emergency and Rescue Management Act 1989*”.



## **5.5 Fish River Water Supply Administration Act 1945 No 16**

### **[1] Section 8A Fixing price of water**

Omit “, or by any electricity distributor (within the meaning of the *Electricity Act 1945*) exercising the water supply functions of a council,” from section 8A (2).

### **[2] Section 8A (2)**

Omit “, or by any such electricity distributor,”.

## **5.6 Land Tax Management Act 1956 No 26**

### **Section 10 Land exempted from tax**

Insert after “specified in the regulations” in section 10 (1) (n) “(being an energy services corporation within the meaning of the *Energy Services Corporations Act 1995*, an electricity distributor that holds an authorisation or licence to operate an electricity distribution system under the *Electricity Supply Act 1995* or a gas distributor that holds an authorisation under the *Gas Act 1986*)”.

## **5.7 Local Government Act 1919 No 41**

### **[1] Section 327 (5)**

Omit the subsection.

### **[2] Section 331A (4)**

Omit the subsection.



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**5.8 Local Government Act 1993 No 30**

**[1] Chapter 6, Part 3, Division 2 Water supply, sewerage and stormwater drainage works and facilities**

Omit the note appearing after the heading to the Division.

**[2] Chapter 6, Part 3, Division 3 Private works**

Omit the note appearing after the heading to the Division.

**[3] Chapter 7, Introduction**

Omit from the Introduction to the Chapter:

Clause 1 of Schedule 9 provides that Parts 1, 2, 3 and 5 of this Chapter apply to and in respect of an electricity distributor exercising water supply functions under the *Electricity Act 1945*. Clause 1 also provides that the references to a council in those Parts extend to an electricity distributor exercising water supply functions under the *Electricity Act 1945*.

**[4] Section 68 What activities, generally, require the approval of the council?**

Omit from the Note to the section:

Clause 2 of Schedule 9 provides that the reference to a council in this section extends to an electricity distributor exercising water supply functions under the *Electricity Act 1945*, but only in relation to approvals of the kind referred to in items 1, 2 and 3 of Part B of the Table to this section.

**[5] Section 124 What orders may be given, in what circumstances and to whom?**

Omit the note appearing at the end of the section.

**[6] Section 128 Catchment districts**

Omit the note appearing at the end of the section.

**[7] Chapter 15, Introduction**

Omit from the Introduction to the Chapter:

Clause 1 of Schedule 9 provides that this Chapter applies to and in respect of an electricity distributor exercising water supply functions under the *Electricity Act 1945*. Clause 1 also provides that the references to a council in this Chapter extend to an electricity distributor exercising water supply functions under the *Electricity Act 1945*.

**[8] Section 581 Reimbursement of councils by Parliament**

Omit the note appearing at the end of the section.

**[9] Chapter 16, Introduction**

Omit from the Introduction to the Chapter:

Clause 1 of Schedule 9 provides that Parts 1 and 3 of this Chapter apply to and in respect of an electricity distributor exercising water supply functions under the *Electricity Act 1945*. Clause 1 also provides that the references to a council in those Parts extend to an electricity distributor exercising water supply functions under the *Electricity Act 1945*.

**[10] Section 626 Failure to obtain approval**

Omit the note appearing at the end of the section.

**[11] Section 627 Failure to comply with approval**

Omit the note appearing at the end of the section.

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**[12] Chapter 17, Introduction**

Omit from the Introduction to the Chapter:

Clause 1 of Schedule 9 provides that this Chapter applies to and in respect of an electricity distributor exercising water supply functions under the *Electricity Act 1945*. Clause 1 also provides that the references to a council in this Chapter extend to an electricity distributor exercising water supply functions under the *Electricity Act 1945*.

**[13] Chapter 17, Part 2, Division 5 Sale of land for unpaid rates and charges**

Omit the note appearing after the heading to the Division.

**[14] Chapter 18, Part 4**

Omit the Part.

**[15] Schedule 9**

Omit the Schedule.

**5.9 Roads (General) Regulation 1994**

**Clause 79 Public authorities**

Insert after clause 79 (2):

- (3) For the purposes of the definition of *public authority* in the Dictionary to the Act, an energy services corporation within the meaning of the *Energy Services Corporations Act 1995* is prescribed as a public authority for the purposes of the Act.

## **5.10 Search Warrants Act 1985 No 37**

### **Section 10 Definitions**

Insert in the definition of *search warrant* in alphabetical order of Acts:

section 63 of the *Electricity Supply Act 1995*,

## **5.11 South-west Tablelands Water Supply Administration Act 1941 No 36**

### **Section 8A Fixing price of water**

Omit “, or to any electricity distributor (within the meaning of the *Electricity Act 1945*) exercising the water supply functions of a council,” from section 8A.

## **5.12 Traffic Act 1909 No 5**

### **[1] Section 10ZA Definitions**

Omit the definition of *electricity distributor*. Insert instead:

*distribution district* of an electricity distributor means the electricity distributor’s distribution district within the meaning of the *Electricity Supply Act 1995*.

*electricity distributor* means an electricity distributor within the meaning of the *Electricity Supply Act 1995*.

### **[2] Section 10ZA**

Omit “within the meaning of the *Electricity Act 1945*” from the definition of *electricity structure*.



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## **Schedule 6    Savings, transitional and other provisions**

(Section 109)

### **Part 1        Preliminary**

#### **1    Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

*Electricity Supply Act 1995*

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### **Part 2        Provisions consequent on enactment of Electricity Supply Act 1995**

#### **Division 1        Provisions relating to Electricity Safety Act 1945**

##### **2    Definitions**

In this Division:

*amended Act* means the *Electricity Safety Act 1945*, as amended by this Act.



**3 Action taken under Division 7 of Part 2A of the amended Act**

Any action taken by an electricity distributor under Division 7 of Part 2A of the amended Act in relation to any premises is deemed to have been taken by the electricity distributor within whose distribution district those premises are situated.

**4 Requirements of statutory bodies under section 7J of the amended Act**

Any requirement of a statutory body under section 7J of the amended Act that applied to an electricity distributor immediately before its repeal in relation to anything done by the electricity distributor in, on or over a public road or public reserve is taken to apply to the electricity distributor within whose distribution district the relevant part of the public road or public reserve is situated.

**5 Approvals by an electricity distributor under section 7K of the amended Act**

Any approval by an electricity distributor under section 7K of the amended Act that had effect immediately before its repeal in relation to the erection or placement of anything is taken to be an approval by the electricity distributor within whose distribution district the relevant part of that thing is situated.

**6 Requirements of an electricity distributor under section 7M of the amended Act**

Any requirement of an electricity distributor under section 7M of the amended Act that applied to a person immediately before its repeal in relation to a conduit owned by that person is taken to be a requirement of the electricity distributor within whose distribution district the relevant part of the conduit is situated.

**7 Action by an electricity distributor under section 7N of the amended Act**

Any action taken by an electricity distributor under section 7N of the amended Act before its repeal in relation to:

- (a) the demolition or removal of a structure or thing, or
- (b) the repair of a work,

is deemed to have been taken by the electricity distributor within whose distribution district the relevant part of the work is situated.

#### **8 Documents served on an electricity distributor under section 7V of the amended Act**

Any document served on an electricity distributor in accordance with section 7V of the amended Act before its repeal in relation to a matter concerning a particular place is taken to have been duly served on the electricity distributor within whose distribution district that place is situated.

#### **9 Continuation of Part 3C of the amended Act**

Part 3C of the amended Act continues to apply to and in respect of any charges for electricity supplied by an electricity supply authority within the meaning of that Act in relation to an accounting period that commenced before its repeal.

#### **10 Conditions of electricity connection and supply**

Until a customer connection contract or customer supply contract comes into force with respect to a customer of an electricity distributor, the conditions on which customer connection services and electricity supply are provided to the customer are to be the same as those that applied to the customer under section 26D of the amended Act immediately before its repeal.

### **Division 2 Provisions relating to Sydney Electricity Act 1990**

#### **11 Definitions**

In this Division:

*former Act* means the *Sydney Electricity Act 1990*.

## **12 Dissolution of Sydney Electricity**

Sydney Electricity (being the corporation constituted by section 4 of the former Act) is dissolved.

## **13 Abolition of board of directors**

- (1) The board of directors for Sydney Electricity (being the body established by section 8 of the former Act) is abolished.
- (2) Part 8 of the *Public Sector Management Act 1988* applies to each member of the board of directors for Sydney Electricity as if the member had been removed from office by the Governor under section 90 of that Act.

## **14 Removal from office of chief executive officer**

- (1) The office of chief executive officer of Sydney Electricity is abolished.
- (2) Part 2A of the *Public Sector Management Act 1988* applies to the chief executive officer of Sydney Electricity as if the chief executive officer had been removed from office by the Governor under section 42Q of that Act.

## **Division 3 General**

### **15 Regulations**

The *Electricity (Tree Preservation) Regulation 1995* is taken to be a regulation under this Act and may be amended and repealed accordingly.

### **16 Certain persons taken to hold authorisations and licences**

- (1) TransGrid is taken to hold:
  - (a) a network operator's authorisation authorising it to operate its transmission system for the purpose of conveying electricity for or on behalf of wholesale traders, and
  - (b) a wholesale trader's authorisation authorising it to enter into any kind of wholesale supply arrangement.



- 
- (2) Pacific Power, and each electricity generator (within the meaning of the *Energy Services Corporations Act 1995*) that was in existence when this clause commenced, is taken to hold a wholesale trader's authorisation authorising it to enter into any kind of wholesale supply arrangement.
- (3) Each electricity distributor that was in existence when this clause commenced is taken to hold:
- (a) a network operator's authorisation authorising it to operate its distribution system so as to convey electricity, for or on behalf of wholesale traders, to, from and along TransGrid's transmission system, and
  - (b) a wholesale trader's authorisation authorising it to enter into any kind of wholesale supply arrangement, and
  - (c) an electricity distributor's licence authorising it to operate its distribution system so as to convey electricity for or on behalf of retail suppliers, and
  - (d) a retail supplier's licence authorising it to supply electricity to retail customers.
- (4) The Lord Howe Island Board is taken to hold:
- (a) an electricity distributor's licence authorising it to operate its distribution system so as to convey electricity for or on behalf of retail suppliers, and
  - (b) a retail supplier's licence authorising it to supply electricity to retail customers.
- (5) Schedules 1 and 2 apply to authorisations and licences that are taken to be held as referred to in subclauses (1), (2), (3) and (4) in the same way as they apply to authorisations and licences granted in accordance with those Schedules.

**17 Review of distribution district boundaries to be carried out within 2 years**

- (1) Within 2 years after the commencement of this clause, the Minister must cause a review to be undertaken for the purpose of ascertaining whether it is appropriate for the boundaries of electricity distributors' distribution districts to be varied.

- (2) The review is to be undertaken by a committee of at least 3 persons appointed by the Minister, of whom:
  - (a) one is to be a public servant employed within the Treasury, and
  - (b) one is to be a public servant employed within the Department of Energy, and
  - (c) the remainder (of whom one is to be appointed as chairperson) are such persons (whether or not public servants) as the Minister may determine.
- (3) Subject to any directions given by the Minister, the procedures of the committee are to be determined by the committee.

## **18 Existing electricity supply arrangements**

Sections 8 and 98 do not apply to electricity supply arrangements (including any covenants, promises, guarantees, obligations, undertakings, liabilities and other agreements in relation to the supply of electricity) entered into before the commencement of that section.



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## Dictionary

(Section 4)

**authorisation** means a network operator's authorisation or wholesale trader's authorisation.

**authorised officer** means an authorised officer appointed under section 94.

**council** means the council of a local government area.

**customer** means a wholesale customer or a retail customer.

**customer connection contract** means a standard form customer connection contract or a negotiated customer connection contract.

**customer connection service** means any of the following services:

- (a) the connection of any premises to an electricity distributor's distribution system, or
- (b) an increase in the maximum capacity of any premises' existing connection to an electricity distributor's distribution system.

**customer consultative group** means a customer consultative group referred to in section 89.

**customer supply contract** means a standard form customer supply contract or a negotiated customer supply contract.

**distribution district** of an electricity distributor specified in Schedule 3 means the distribution district described in that Schedule in relation to the distributor.

**distribution system** means the electricity power lines and associated equipment and electricity structures that are used to convey and control the conveyance of electricity to the premises of wholesale and retail customers, or to convey and control the conveyance of electricity to, from and along the rail network electricity system operated by the State Rail Authority, but does not include a transmission system.

**electrical installation** means the electrical wiring and associated equipment that are used to convey and control the conveyance of electricity within premises to which electricity is supplied from a distribution system, but does not include anything connected to and extending or situated beyond an electrical outlet socket.

**electricity distributor** means a person who owns or controls a distribution system.

***electricity distributor's licence*** means a licence referred to in section 14.

***electricity generator*** means a person who owns or controls a generating system.

***electricity structure*** means any structure (other than a building) that is used to carry overhead lines or associated equipment, and includes any structure that is used for the purposes of street lighting.

***electricity works*** means any electricity power lines or associated equipment or electricity structures that form part of a transmission or distribution system.

***exercise*** a function includes perform a duty.

***franchise customer*** means a person who is not a non-franchise customer.

***function*** includes a power, authority or duty.

***generating system*** means the electrical equipment and associated electricity structures that are used to generate electricity for supply to a transmission or distribution system.

***licence*** means an electricity distributor's licence or a retail supplier's licence.

***Market and System Operator*** means the Market and System Operator referred to in section 77.

***negotiated customer connection contract*** means a contract entered into under Division 3 of Part 3.

***negotiated customer supply contract*** means a contract entered into under Division 3 of Part 4.

***network operator*** means a transmission operator or electricity distributor.

***network operator's authorisation*** means an authorisation referred to in section 7.

***non-franchise customer*** means a person who is a non-franchise customer by virtue of an order in force under section 92.

***premises*** includes any building or part of a building, any structure or part of a structure, any land (whether built on or not) and any river, lake or other waters.

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**public authority** means a public or local authority constituted by or under an Act or a statutory body representing the Crown, and includes a Minister and a statutory State owned corporation and its subsidiaries.

**public reserve** has the same meaning as it has in the *Local Government Act 1993*.

**public road** has the same meaning as it has in the *Roads Act 1993*.

**retail customer** means a person to whose premises electricity is supplied under a customer supply contract.

**retail supplier** means a person who supplies electricity under a customer supply contract.

**retail supplier's licence** means a licence referred to in section 33.

**roads authority** has the same meaning as it has in the *Roads Act 1993*.

**standard form customer connection contract** means a contract entered into under Division 2 of Part 3.

**standard form customer supply contract** means a contract entered into under Division 2 of Part 4.

**supply**, in relation to electricity, means the supply of electricity by means of a transmission or distribution system.

**TransGrid** means the Electricity Transmission Authority constituted by the *Electricity Transmission Authority Act 1994*.

**transmission operator** means a person who owns or controls a transmission system.

**transmission system** means any electricity power lines and associated equipment and electricity structures that are a transmission system by virtue of an order in force under section 93.

**unincorporated area** means such part of the land within the Western Division of the State as is not within a local government area.

**wholesale customer** means a person to whose premises electricity is supplied under a wholesale supply arrangement.

**wholesale market access regime** means an access regime established by the Market and System Operator's conditions of wholesale market operation, as referred to in section 78 (3) (a).



Dictionary

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***wholesale supplier*** means a person who supplies electricity under a wholesale supply arrangement.

***wholesale supply arrangement*** means an arrangement (other than a customer supply contract) for the supply of electricity.

***wholesale trader*** means a person:

- (a) who enters into wholesale supply arrangements, or
- (b) who buys, sells or otherwise deals in rights to the supply of electricity arising under wholesale supply arrangements.

***wholesale trader's authorisation*** means an authorisation referred to in section 10.

[Minister's second reading speech made in—  
Legislative Assembly on 23 November 1995  
Legislative Council on 12 December 1995]

BY AUTHORITY





New South Wales

# Electricity Supply Bill 1995

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.  
The following Bills are cognate with this Bill:

*Energy Services Corporations Bill 1995*

*Sustainable Energy Development Bill 1995.*

## Overview of Bill

The objects of this Bill are:

- (a) to establish a competitive wholesale and retail market in electricity so as to promote efficient and environmentally responsible production and use of electricity and to deliver a safe and reliable supply of electricity, and
- (b) to regulate network operations and wholesale trading in the wholesale market for electricity in anticipation of the introduction of a national electricity market, and
- (c) to regulate network operations and electricity supply in the retail market in a manner that ensures open access to electricity distribution systems, promotes customer choice and creates customer rights in relation to electricity connections and electricity supply.

The Bill also amends various other Acts and instruments and contains provisions of a savings and transitional nature.

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## Outline of provisions

### **Part 1 Preliminary**

This Part contains provisions for the name of the proposed Act, the commencement of the proposed Act, the objects of the proposed Act, the definition of words and expressions used in the proposed Act and the status of the Crown (clauses 1-5).

### **Part 2 Network operations and wholesale trading in the wholesale market**

This Part deals with the wholesale market for electricity, regulating network operations (that is, the operation of transmission and distribution systems that convey electricity from where it is generated to where it is used) and wholesale trading (that is, the buying and selling of electricity in bulk). The provisions of the proposed Act anticipate a national regime to which it is intended that the State will eventually become a party. The principal characteristics of the regime involve the separation of network operations from wholesale trading, so as to promote competition, and the involvement of a Market and System Operator to co-ordinate both network operations and wholesale trading, so as to promote a safe and reliable electricity supply system.

#### **Division 1 Network operations**

This Division prohibits the operation of a transmission or distribution system for wholesale trading by persons who do not hold appropriate authorisations (clause 6), provides for the granting of network operators' authorisations (clause 7 and Schedule 1) and imposes conditions on such authorisations in relation to the persons for whom electricity may be conveyed (clause 8) and compliance with the Market and System Operator's rules, procedures and conditions of wholesale market operation (clause 9).

#### **Division 2 Wholesale trading**

This Division provides for the granting of wholesale traders' authorisations (clause 10 and Schedule 1) and imposes conditions on such authorisations in relation to the prohibition of discriminatory policies in connection with the supply of electricity (clause 11) and compliance with the Market and System Operator's rules, procedures and conditions of wholesale market operation (clause 12).



### **Part 3      Network operations in the retail market**

This Part regulates network operations (that is, the operation of transmission and distribution systems that convey electricity from where it is generated to where it is used) in the retail market for electricity. As with the wholesale market, these operations are to be kept separate from electricity supply operations, so as to promote competition.

#### **Division 1      Network operations**

This Division prohibits the operation of a transmission or distribution system for retail supply by persons who do not hold appropriate licences (clause 13), provides for the granting of network operators' licences (clause 14 and Schedule 2) and imposes conditions on such licences in relation to rights to connection (clause 15), the persons for whom electricity may be conveyed (clause 16), the holding of retail suppliers' licences by electricity distributors (clause 17) and the requirement for customer connection contracts (clause 18).

#### **Division 2      Standard form customer connection contracts**

This Division establishes the procedure for preparing standard form customer connection contracts (clause 19), provides for the matters for which such contracts must provide (clause 20), specifies the effect of such contracts (clause 21) and provides for their amendment (clause 22).

#### **Division 3      Negotiated customer connection contracts**

This Division provides for negotiated customer connection contracts for customers who opt out of the standard form of contract (clause 23).

#### **Division 4      Requirements relating to customer connection services**

This Division gives electricity distributors the power to impose requirements on customers in relation to the provision of customer connection services. In particular, it enables an electricity distributor to refuse to provide such services if those requirements are not complied with (clause 24). The requirements may relate to contributions towards the augmentation of the electricity distributor's distribution system (clause 25), the provision of service lines (clause 26), service equipment (clause 27), transformers (clause 28) and electricity meters (clause 29), the installation and use of apparatus (clause 30), customer choice in the provision of goods and services (clause 31) and the sealing of electrical installations (clause 32).

## **Part 4 Electricity supply in the retail market**

This Part regulates the supply of electricity in the retail market for electricity. As with the wholesale market, operations relating to retail supply are to be kept separate from network operations, so as to promote competition.

### **Division 1 Electricity supply**

This Division provides for the granting of retail suppliers' licences (clause 33 and Schedule 2) and imposes conditions on such licences in relation to rights to supply (clause 34), the prohibition of discriminatory policies in connection with the supply of electricity (clause 35), the supply of electricity to franchise customers (clause 36), the supply of electricity to non-franchise customers (clause 37) and the requirement for customer supply contracts (clause 38).

### **Division 2 Standard form customer supply contracts**

This Division establishes the procedure for preparing standard form customer supply contracts (clause 39), provides for the matters for which such contracts must provide (clause 40), specifies the effect of such contracts (clause 41) and provides for their amendment (clause 42).

### **Division 3 Negotiated customer supply contracts**

This Division provides for negotiated customer supply contracts for non-franchise customers and for franchise customers who opt out of the standard form of contract (clause 43).

## **Part 5 Powers and duties of network operators generally**

This Part deals with the powers and duties of network operators in connection with the installation, operation and maintenance of their transmission and distribution systems.

### **Division 1 Acquisition of land**

This Division empowers a network operator to acquire land in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (clause 44).



## **Division 2 Powers and duties relating to electricity works**

This Division empowers network operators to carry out certain works in connection with their transmission and distribution systems (clause 45), requires them to make good any damage they cause in so doing (clause 46), empowers them to move conduits (clause 47), trim and remove trees (clause 48) and remove obstructions (clause 49), exempts them from payments of charges in relation to electricity works situated in public roads or public reserves (clause 50), ensures that they retain ownership over their electricity works, wherever situated (clause 51), allows them to interrupt the supply of electricity for maintenance purposes (clause 52) and exempts them from liability for failures in electricity supply due to mechanical breakdowns or uncontrollable causes (clause 53).

## **Division 3 Powers of entry**

This Division sets out the powers and duties of network operators in relation to entry to private land. The Division confers a power of entry in certain circumstances (clause 54), requires notice to be given (clause 55), allows the use of force in specified situations (clause 56), requires the use of force or urgent entry to be reported (clause 57), requires care to be taken (clause 58), provides for the recovery of the costs of entry in certain circumstances (clause 59), provides for the payment of compensation (clause 60), requires possession of an appropriate certificate of authority (clause 61), regulates entry onto residential premises (clause 62) and provides for warrants of entry (clause 63).

## **Part 6 Offences**

### **Division 1 General offences**

This Division creates offences with respect to theft of electricity (clause 64), interference with electricity works (clause 65), interference with electricity meters (clause 66), interference with electricity distributors' seals (clause 67), unauthorised connections (clause 68), unauthorised increase in capacity of connections (clause 69), unauthorised alterations and additions to electrical installations (clause 70) and obstruction of authorised officers (clause 71).

### **Division 2 Restrictions on resupply of electricity**

This Division prohibits the reselling of electricity, with an exception for landlords who merely pass on electricity charges to their tenants (clause 72).

### **Division 3     Supplementary orders**

This Division empowers a Local Court to order disconnection and discontinuance of electricity supply (clause 73), to order payment for electricity unlawfully charged for (clause 74) and to order payment for stolen electricity (clause 75) and provides that any such order may be enforced as a civil debt (clause 76).

## **Part 7     Administration**

### **Division 1     The Market and System Operator**

This Division provides for the appointment of a Market and System Operator to co-ordinate the wholesale market for electricity (clause 77). Initially, TransGrid will be the Market and System Operator. The Division also sets out the principal functions of the Market and System Operator (clause 78), empowers the Market and System Operator to impose fees (clause 79) and establishes a System Control Fund (clause 80), a Market Operations Fund (clause 81) and a Market Settlements Fund (clause 82).

### **Division 2     Distribution districts**

This Division establishes distribution districts for certain electricity distributors (clause 83 and Schedule 3), provides for their variation (clause 84) and provides for the transfer of staff, assets, rights and liabilities as a consequence of any such variation (clause 85 and Schedule 4).

### **Division 3     Customer consultative groups**

This Division provides for the appointment of customer consultative groups for electricity distributors (clause 86), provides for their constitution and procedure (clause 87) and sets out their functions, which are to be to provide advice and information to their parent electricity distributor in connection with customer connection services and electricity supply (clause 88).

### **Division 4     General**

This Division enables the Minister to declare certain persons to be non-franchise customers (clause 89), and certain electricity works to be transmission systems (clause 90), by means of orders published in the Gazette, and empowers network operators to appoint authorised officers for the purpose of exercising various functions (including powers of entry) under the proposed Act (clause 91).



## **Part 8 Appeals and resolution of disputes**

This Part confers a right of appeal in relation to decisions under Schedules 1 and 2 in relation to authorisations and licences (clause 92), confers a right of appeal on customers against certain decisions of electricity distributors and retail suppliers (clause 93) and provides a mechanism for resolving disputes between public authorities (clause 94).

## **Part 9 Miscellaneous**

This Part contains the following provisions:

- (a) a provision making unauthorised electricity supply arrangements unenforceable (clause 95),
- (b) a provision to the effect that customer connection contracts and customer supply contracts may form one document (clause 96),
- (c) a provision authorising the delegation of the Minister's functions under the proposed Act (clause 97),
- (d) a provision making directors and managers liable for offences committed by corporations (clause 98),
- (e) a provision with respect to proceedings for offences (clause 99),
- (f) a provision with respect to the recovery of monetary penalties imposed under Schedule 1 or 2 (clause 100),
- (g) a provision with respect to the recovery of charges by network operators and wholesale or retail suppliers (clause 101),
- (h) a provision with respect to the application of the proposed Act outside local government areas (clause 102),
- (i) a provision authorising the making of regulations (clause 103),
- (j) a provision repealing certain Acts and instruments (clause 104),
- (k) a provision giving effect to Schedule 5, which contains amendments to various Acts and instruments (clause 105),
- (l) a provision giving effect to Schedule 6, which contains savings and transitional provisions (clause 106),
- (m) a provision requiring the proposed Act to be reviewed at the end of 5 years (clause 107).

## Schedules

**Schedule 1** provides for the granting of authorisations, the imposition of conditions on authorisations, the variation of those conditions and the cancelling of authorisations. The Schedule also enables a civil penalty of up to \$100,000 to be imposed on the holder of an authorisation in relation to any contravention of the proposed Act or the regulations or the conditions of the authorisation.

**Schedule 2** provides for the granting of licences, the imposition of conditions on licences, the variation of those conditions and the cancelling of licences. The Schedule also enables a civil penalty of up to \$100,000 to be imposed on the holder of a licence in relation to any contravention of the proposed Act or the regulations or the conditions of the licence.

**Schedule 3** describes the distribution districts of various electricity distributors.

**Schedule 4** provides for the transfer of staff, assets, rights and liabilities consequent on the variation of the boundaries of an electricity distributor's distribution district.

**Schedule 5** amends the following Acts and instruments:

*Electricity Act 1945 (1946 No 13)*

*Electricity (Pacific Power) Act 1950 No 22*

*Electricity Transmission Authority Act 1994 No 64*

*Energy Administration Act 1987 No 103*

*Fish River Water Supply Administration Act 1945 No 16*

*Land Tax Management Act 1956 No 26*

*Local Government Act 1919 No 41*

*Local Government Act 1993 No 30*

*Roads (General) Regulation 1994*

*Search Warrants Act 1985 No 37*

*South-west Tablelands Water Supply Administration Act 1941 No 36*

*Traffic Act 1909 No 5.*

**Schedule 6** contains provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

**Dictionary** defines various words and expressions used in the proposed Act.





New South Wales

# Electricity Supply Bill 1995

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## Electricity Supply Bill 1995

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The dictionary defines the following words and expressions

|                                            |                                               |
|--------------------------------------------|-----------------------------------------------|
| authorisation                              | network operator                              |
| authorised officer                         | network operator's<br>authorisation           |
| council                                    | non-franchise customer                        |
| customer                                   | premises                                      |
| customer connection<br>contract            | public authority                              |
| customer connection<br>service             | retail customer                               |
| customer consultative<br>group             | retail supplier                               |
| customer supply contract                   | retail supplier's licence                     |
| distribution district                      | roads authority                               |
| distribution system                        | standard form customer<br>connection contract |
| electrical installation                    | standard form customer<br>supply contract     |
| electricity distributor                    | supply                                        |
| electricity distributor's<br>licence       | TransGrid                                     |
| electricity generator                      | transmission operator                         |
| electricity structure                      | transmission system                           |
| electricity works                          | unincorporated area                           |
| exercise a function                        | wholesale customer                            |
| franchise customer                         | wholesale market access<br>regime             |
| function                                   | wholesale supplier                            |
| generating system                          | wholesale supply<br>arrangement               |
| licence                                    | wholesale trader                              |
| Market and System<br>Operator              | wholesale trader's<br>authorisation           |
| negotiated customer<br>connection contract |                                               |
| negotiated customer supply<br>contract     |                                               |







New South Wales

## Electricity Supply Bill 1995

No. , 1995

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### **A Bill for**

An Act to regulate the supply of electricity in the wholesale and retail markets; to set out the functions of persons engaged in the conveyance and supply of electricity; and for other purposes.

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See also Energy Services Corporations Bill 1995, Sustainable Energy Development Bill 1995.

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The Legislature of New South Wales enacts:

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Electricity Supply Act 1995*.

### 2 Commencement

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This Act commences on a day or days to be appointed by proclamation.

### 3 Objects

The objects of this Act are:

- (a) to establish a competitive wholesale and retail market in electricity so as to promote efficient and environmentally responsible production and use of electricity and to deliver a safe and reliable supply of electricity, and 10
- (b) to regulate network operations and wholesale trading in the wholesale market for electricity in anticipation of the introduction of a national electricity market, and 15
- (c) to regulate network operations and electricity supply in the retail market in a manner that ensures open access to electricity distribution systems, promotes customer choice and creates customer rights in relation to electricity connections and electricity supply. 20

### 4 Definitions

Expressions used in this Act that are defined in the dictionary at the end of this Act have the meanings set out in the dictionary.

### 5 Act binds Crown

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This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

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## **Part 2      Network operations and wholesale trading in the wholesale market**

### **Division 1   Network operations**

#### **6   Operation of transmission and distribution systems for wholesale trading**

5

A person must not operate a transmission or distribution system for the purpose of conveying electricity, for or on behalf of wholesale traders, otherwise than under the authority of a network operator's authorisation.

Maximum penalty: 500 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

10

#### **7   Authorisations**

- (1) The Minister may grant network operators' authorisations for the purposes of this Act.
- (2) Schedule 1 has effect with respect to the granting, variation, transfer and cancellation of network operators' authorisations.

15

#### **8   Network operators to convey electricity for authorised wholesale traders only**

It is a condition of a network operator's authorisation that the network operator must not operate its transmission or distribution system for the purpose of conveying electricity for or on behalf of a wholesale trader (other than the Market and System Operator) unless the wholesale trader holds a wholesale trader's authorisation.

20

#### **9   Network operators to comply with Market and System Operator's rules, procedures and conditions of wholesale market operation**

25

It is a condition of a network operator's authorisation that:

- (a) in the case of a transmission operator, the operator must not operate its transmission system, and

30

- (b) in the case of an electricity distributor, the distributor must not operate its distribution system so as to convey electricity to or from a transmission system,

otherwise than in accordance with the rules, procedures and conditions of wholesale market operation published by the Market and System Operator and any directions given to the network operator by the Market and System Operator. 5

## **Division 2 Wholesale trading**

### **10 Authorisations**

- (1) The Minister may grant wholesale traders' authorisations for the purposes of this Act. 10
- (2) Schedule 1 has effect with respect to the granting, variation, transfer and cancellation of wholesale traders' authorisations.

### **11 Discrimination prohibited**

- (1) It is unlawful for a wholesale supplier: 15
- (a) to refuse to supply electricity to any person, or
- (b) to supply electricity to any person on terms that are less advantageous than those on which the wholesale supplier supplies electricity to other persons,
- on the basis that the person uses or supplies alternative forms of energy, uses or supplies energy from alternative sources or uses or supplies products, processes, designs or services that reduce the demand for energy. 20
- (2) It is a condition of a wholesale trader's authorisation held by a wholesale supplier that the wholesale supplier must not contravene this section. 25



**12 Wholesale traders to comply with Market and System Operator's rules, procedures and conditions of wholesale market operation**

It is a condition of a wholesale trader's authorisation that the wholesale trader must not enter into wholesale supply arrangements otherwise than: 5

- (a) with the Market and System Operator or with persons who hold wholesale traders' authorisations, and
- (b) in accordance with the rules, procedures and conditions of wholesale market operation published by the Market and System Operator and any directions given to the wholesale trader by the Market and System Operator. 10

## **Part 3 Network operations in the retail market**

### **Division 1 Network operations**

#### **13 Operation of distribution systems for retail supply**

A person must not operate a distribution system for the purpose of conveying electricity, for or on behalf of retail suppliers, otherwise than under the authority of an electricity distributor's licence. 5

Maximum penalty: 500 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

#### **14 Licences 10**

- (1) The Minister may grant electricity distributors' licences for the purposes of this Act.
- (2) Schedule 2 has effect with respect to the granting, variation, transfer and cancellation of electricity distributors' licences.

#### **15 Right to connection to local distribution system for all customers 15**

- (1) An application may be made to an electricity distributor:
  - (a) by any person who owns or occupies premises within the electricity distributor's distribution district (other than a person who is entitled to the provision of customer connection services under a wholesale market access regime), or 20
  - (b) by any other person on behalf of any such person, for the provision of customer connection services to those premises. 25
- (2) An electricity distributor to which such an application is made is obliged:
  - (a) to provide customer connection services to the applicant's premises under the customer connection contract relevant to the applicant, or 30
  - (b) to ensure that customer connection services are so provided.

- 
- (3) The right that a person has under this section to have premises provided with customer connection services is subject to any provision of this Act or the regulations that authorises the disconnection of those premises from, or the refusal to connect those premises to, a distribution system. 5
- (4) It is a condition of an electricity distributor's licence that the electricity distributor must fulfil the obligations imposed on the electricity distributor by this section.
- 16 Electricity distributors to convey electricity for licensed retail suppliers only** 10
- It is a condition of an electricity distributor's licence that the electricity distributor must not operate its distribution system for the purpose of conveying electricity, for or on behalf of a retail supplier, unless the retail supplier holds a retail supplier's licence. 15
- 17 Electricity distributors to hold retail suppliers' licences**
- It is a condition of an electricity distributor's licence that the electricity distributor must hold a retail supplier's licence at all times while it holds an electricity distributor's licence.
- 18 Electricity distributors to connect premises under customer connection contracts** 20
- It is a condition of an electricity distributor's licence that the electricity distributor must not provide any of the following services (*customer connection services*) otherwise than under a customer connection contract: 25
- (a) the connection of any premises to its distribution system, or
- (b) an increase in the maximum capacity of any premises' existing connection to its distribution system.
- Division 2 Standard form customer connection contracts** 30
- 19 Procedure for making standard form customer connection contracts**
- (1) An electricity distributor must prepare a standard form customer connection contract to establish the conditions on which it will provide customer connection services. 35
-



- (2) An electricity distributor must notify any relevant customer consultative group, and must have due regard to its comments, before completing its preparation of a standard form customer connection contract.
- (3) Different forms of customer connection contract may be prepared for different classes of customer. 5

**20 Matters for which standard form customer connection contracts must provide**

- (1) A standard form customer connection contract must make provision for the following matters: 10
  - (a) the basis on which charges for its customer connection services are to be calculated,
  - (b) any security to be provided by customers for payment of any such charges,
  - (c) the standard of service to be provided to customers by the electricity distributor, 15
  - (d) the requirements to be complied with by customers under Division 4,
  - (e) the circumstances under which premises may be disconnected from the electricity distributor's distribution system, 20
  - (f) the procedures established by the electricity distributor for handling enquiries and complaints made by customers, and resolving disputes with customers, in relation to matters arising under the contract, 25
  - (g) such other matters as may be prescribed by the regulations.
- (2) A standard form customer connection contract:
  - (a) must indicate that this Act confers powers, duties, rights and obligations on the electricity distributor and customers, and 30
  - (b) must briefly describe the nature of those powers, duties, rights and obligations,

but is not unenforceable merely because of any failure to do so.



- 
- (3) A standard form customer connection contract must comply with:
- (a) any conditions imposed on the electricity distributor by its electricity distributor's licence, and
  - (b) any relevant determination made by the Government Pricing Tribunal,

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but is not unenforceable merely because of any failure to do so.

- (4) A standard form customer connection contract must not be inconsistent with the provisions of this Act or the regulations, and is unenforceable to the extent of any such inconsistency.

## **21 Effect of standard form customer connection contracts**

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- (1) Except to the extent to which the regulations otherwise provide, a standard form customer connection contract takes effect:

- (a) on the first day on which notice of its terms is published in a newspaper circulating throughout the electricity distributor's distribution district, or

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- (b) on such later day as may be specified in the notice.

- (2) The particulars to be set out in a notice under this section:

- (a) must specify the date on or after which the customer connection contract is to take effect, not being a date that is earlier than the date the notice is published or served, and

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- (b) must include such other particulars as may be prescribed by the regulations.

- (3) A notice under this section may be of general application or be limited in its application by reference to specified exceptions or factors.

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- (4) A standard form customer connection contract does not have effect in respect of any period before the date specified in the relevant notice as the date on or after which the contract is to take effect.

30

- (5) On the day on which a customer applies to an electricity distributor for the provision of customer connection services, the customer and the electricity distributor are taken to have entered into an agreement for the provision of customer connection services on the conditions set out in the relevant standard form customer connection contract, and the contract is enforceable accordingly. 5

## **22 Amendment of standard form customer connection contracts**

- (1) From time to time an electricity distributor may amend a standard form customer connection contract to vary the conditions on which it will provide customer connection services. 10
- (2) This Division applies to an amendment of a standard form customer connection contract in the same way as it applies to a standard form customer connection contract.

## **Division 3 Negotiated customer connection contracts** 15

### **23 Negotiated customer connection contracts**

- (1) This section applies to customer connection contracts in circumstances in which the electricity distributor and customer agree for customer connection services to be provided otherwise than under any of the electricity distributor's standard form customer connection contracts. 20
- (2) A customer connection contract to which this section applies (a *negotiated customer connection contract*) may contain such terms as the electricity distributor and customer may agree, and the contract is enforceable accordingly. 25
- (3) A negotiated customer connection contract must comply with any conditions imposed on the electricity distributor by its electricity distributor's licence, but is not unenforceable merely because of any failure to do so.

- (4) A negotiated customer connection contract must not be inconsistent with the provisions of this Act or the regulations, and is unenforceable to the extent of any such inconsistency.

#### **Division 4 Requirements relating to customer connection services**

5

##### **24 Application**

- (1) This Division applies to any person who applies to an electricity distributor for the provision of customer connection services or to whom customer connection services are provided.
- (2) An electricity distributor may refuse to provide customer connection services to a person who fails to comply with a requirement under this Division. 10

##### **25 Contributions to augmentation of distribution system**

- (1) An electricity distributor may require a new customer to contribute towards the costs incurred or to be incurred by the electricity distributor: 15
- (a) in extending its distribution system, or
- (b) in increasing the capacity of its distribution system,
- so as to enable it to provide customer connection services to the customer. 20
- (2) For the purpose of ensuring that previously incurred costs of the kind referred to in subsection (1) are equitably borne by customers in the same vicinity, the electricity distributor:
- (a) may require further new customers to contribute towards those costs, and 25
- (b) may apply the whole or any part of the contributions received from those customers to the repayment of existing customers who have previously contributed towards those costs.
- (3) An electricity distributor may not require a contribution referred to in subsection (2) (a) if: 30



- (a) the total costs incurred or to be incurred by the electricity distributor (excluding any amounts repaid or to be repaid as referred to in subsection (2) (b)) have already been recovered, or
- (b) those costs were incurred more than 6 years before the date on which the new customer applied for the provision of customer connection services. 5

## 26 Service lines

- (1) An electricity distributor may require the installation of such service lines, and provision for their attachment, as it considers necessary to provide a supply of electricity to a customer. 10
- (2) The type, construction and route of a service line and its point of connection are to be as determined by the electricity distributor.
- (3) An electricity distributor may require premises to be provided with more than one point of connection if the electricity distributor considers it necessary to avoid interference with the supply of electricity to any other premises. 15

## 27 Service equipment

- (1) An electricity distributor may require the installation of such service equipment, and provision for its mounting, as it considers necessary for the provision of a safe and efficient supply of electricity to a customer. 20
- (2) The position and standards of installation of service equipment are to be as determined by the electricity distributor.

## 28 Transformers 25

- (1) This section applies if, in the opinion of the electricity distributor, the supply of electricity required by a customer:
  - (a) exceeds that which can be provided by a service line from its street mains, and
  - (b) can best be given by installing transformers, switchgear or other equipment on the premises to be supplied. 30



- 
- (2) In such a case, the electricity distributor may require the customer to provide for use by the electricity distributor, free of cost, a place within those premises to accommodate the transformers, switchgear or other equipment that the electricity distributor considers should be installed. 5
- (3) The place provided must be approved by, and must be enclosed in a manner approved by, the electricity distributor.

## 29 Electricity meters

- (1) An electricity distributor may require the installation of such electricity meters as it considers necessary to ascertain the quantity of electricity supplied to a customer. 10
- (2) The position and standards of installation of electricity meters are to be as determined by the electricity distributor.

## 30 Requirements as to installation and use of apparatus

- (1) An electricity distributor: 15
- (a) may impose such requirements as to the installation and use of electrical appliances and equipment by the customer as the electricity distributor considers necessary to prevent or minimise adverse effects on the supply of electricity to other customers, and 20
  - (b) may impose requirements relating to loading of, and the balancing of the load over, the phases of the customer's electricity supply, and
  - (c) may impose requirements as to the minimum rupture rating or minimum breaking capacity of the customer's main protective devices, and 25
  - (d) may require the customer to install relays, current transformers and other protective equipment having characteristics to suit the electricity distributor's protective system. 30
- (2) A customer must comply with any requirement imposed on the customer under this section.

**31 Customer may choose supplier and contractor**

- (1) For the purpose of complying with any requirement imposed under this Division or under a customer connection contract, a customer may elect:
- (a) to have any required electrical or other goods provided by the electricity distributor (in the case of goods that are available from the electricity distributor) or by any other person, and 5
  - (b) to have any required electrical or other services provided by the electricity distributor (in the case of services that are available from the electricity distributor) or by any other person. 10
- (2) A person who provides electrical or other services of a kind prescribed by the regulations must be accredited, in accordance with the regulations, to provide those services. 15

**32 Sealing of electrical installations**

An electricity distributor may attach seals to a customer's electrical installation if it considers it appropriate to do so.

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## **Part 4 Electricity supply in the retail market**

### **Division 1 Electricity supply**

#### **33 Licences**

- (1) The Minister may grant retail suppliers' licences for the purposes of this Act. 5
- (2) Schedule 2 has effect with respect to the granting, variation, transfer and cancellation of retail suppliers' licences.

#### **34 Right to supply from local electricity distributor for all franchise and non-franchise customers**

- (1) An application may be made to an electricity distributor: 10
  - (a) by any person who owns or occupies premises that are connected to the electricity distributor's distribution system, or
  - (b) by any other person on behalf of any such person,for the supply of electricity to those premises, at a rate not exceeding the maximum capacity of the connection to the system. 15
- (2) An electricity distributor to which such an application is made is obliged:
  - (a) to supply electricity to the applicant's premises under the customer supply contract relevant to the applicant, or 20
  - (b) to ensure that electricity is so supplied.
- (3) The right that a person has under this section to have premises supplied with electricity is subject to any provision of this Act or the regulations that authorises the refusal, suspension or discontinuance of the supply of electricity. 25
- (4) It is a condition of a retail supplier's licence held by an electricity distributor that the electricity distributor must fulfil the obligations imposed on the electricity distributor by this section.



### **35 Discrimination prohibited**

- (1) It is unlawful for a retail supplier:
- (a) to refuse to supply electricity to any person, or
  - (b) to supply electricity to any person on terms that are less advantageous than those on which the retail supplier supplies electricity to other persons, 5
- on the basis that the person uses or supplies alternative forms of energy, uses or supplies energy from alternative sources or uses or supplies products, processes, designs or services that reduce the demand for energy. 10
- (2) It is a condition of a retail supplier's licence that the retail supplier must not contravene this section.

### **36 Supply of electricity to franchise customers**

- (1) It is a condition of a retail supplier's licence that the retail supplier must not supply electricity to the premises of a franchise customer otherwise than: 15
- (a) in the case of an electricity distributor, for the purpose of supplying electricity to the customer under the obligation imposed on the electricity distributor by section 34, or
  - (b) in the case of any other retail supplier, for the purpose of supplying electricity to the customer on behalf of an electricity distributor under the obligation imposed on the electricity distributor by section 34. 20
- (2) This section does not affect any arrangements approved by the Minister under which electricity distributors with adjoining distribution districts supply electricity to franchise customers in each others' distribution districts. 25

### **37 Supply of electricity to non-franchise customers**

A retail supplier may, but (subject to section 34) is not required to, supply electricity to the premises of a non-franchise customer. 30



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**38 Retail suppliers to supply electricity under customer supply contracts**

It is a condition of a retail supplier's licence that the retail supplier must not supply electricity to the premises of a retail customer otherwise than under a customer supply contract.

5

**Division 2 Standard form customer supply contracts****39 Procedure for making standard form customer supply contracts**

- (1) A retail supplier must prepare a standard form customer supply contract to establish the conditions on which it will supply electricity to the premises of its franchise customers. 10
- (2) A retail supplier must notify any relevant customer consultative group, and must have due regard to its comments, before completing its preparation of a standard form customer supply contract.
- (3) Different forms of customer supply contract may be prepared for different classes of franchise customers. 15

**40 Matters for which standard form customer supply contracts must provide**

- (1) A standard form customer supply contract must make provision for the following matters: 20
  - (a) the basis on which charges for the supply of electricity to franchise customers are to be calculated,
  - (b) any security to be provided by franchise customers for payment of any such charges,
  - (c) the standard of service to be provided to franchise customers by the retail supplier, 25
  - (d) the circumstances under which the supply of electricity to franchise customers may be discontinued,
  - (e) the procedures established by the retail supplier for handling enquiries and complaints made by franchise customers, and resolving disputes with franchise customers, in relation to matters arising under the contract, 30

- (f) the estimation of electricity supplied otherwise than through an electricity meter or in circumstances in which an electricity meter fails to operate or fails to operate correctly,
  - (g) the rate at which electricity is taken to have been supplied between consecutive meter readings, 5
  - (h) such other matters as may be prescribed by the regulations.
- (2) A standard form customer supply contract:
  - (a) must indicate that this Act confers powers, duties, rights and obligations on the retail supplier and franchise customers, and 10
  - (b) must briefly describe the nature of those powers, duties, rights and obligations,but is not unenforceable merely because of any failure to do so.
- (3) A standard form customer supply contract must comply with: 15
  - (a) any conditions imposed on the retail supplier by its retail supplier's licence, and
  - (b) any relevant determination made by the Government Pricing Tribunal,but is not unenforceable merely because of any failure to do so. 20
- (4) A standard form customer supply contract must not be inconsistent with the provisions of this Act or the regulations, and is unenforceable to the extent of any such inconsistency.

#### **41 Effect of standard form customer supply contracts**

- (1) Except to the extent to which the regulations otherwise provide, a standard form customer supply contract takes effect: 25
  - (a) on the first day on which notice of its terms is published in a newspaper circulating throughout the State or in a newspaper circulating throughout the relevant distribution district, or 30
  - (b) on such later day as may be specified in the notice.
- (2) The particulars to be set out in a notice under this section:
  - (a) must specify the date on or after which the customer supply contract is to take effect, not being a date that is earlier than the date the notice is published or served, and 35

- (b) must include such other particulars as may be prescribed by the regulations.
- (3) A notice under this section may be of general application or be limited in its application by reference to specified exceptions or factors. 5
- (4) A standard form customer supply contract does not have any effect in respect of any period before the date specified in the relevant notice as the date on or after which the contract is to take effect.
- (5) On the day on which a customer applies to a retail supplier for the supply of electricity, the customer and the retail supplier are taken to have entered into an agreement for the provision of electricity on the conditions set out in the relevant standard form customer supply contract, and the contract is enforceable accordingly. 10  
15

#### **42 Amendment of standard form customer supply contracts**

- (1) From time to time a retail supplier may amend a standard form customer supply contract so as to vary the conditions on which it supplies electricity to franchise customers.
- (2) This Division applies to an amendment of a standard form customer supply contract in the same way as it applies to a standard form customer supply contract. 20

### **Division 3 Negotiated customer supply contracts**

#### **43 Negotiated customer supply contracts**

- (1) This clause applies: 25
  - (a) to customer supply contracts for non-franchise customers, and
  - (b) to customer supply contracts for franchise customers in circumstances in which the retail supplier and the franchise customer agree for electricity to be supplied otherwise than under any of the retail supplier's standard form customer supply contracts. 30



Clause 43      Electricity Supply Bill 1995

Part 4            Electricity supply in the retail market  
Division 3

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- (2) A customer supply contract to which this section applies (a *negotiated customer supply contract*) may contain such terms as the retail supplier and customer may agree, and the contract is enforceable accordingly.
- (3) A negotiated customer supply contract must comply with any conditions imposed on the retail supplier by its retail supplier's licence, but is not unenforceable merely because of any failure to do so. 5
- (4) A negotiated customer supply contract must not be inconsistent with the provisions of this Act, and is unenforceable to the extent of any such inconsistency. 10



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## **Part 5 Powers and duties of network operators generally**

### **Division 1 Acquisition of land**

#### **44 Acquisition of land**

- (1) A network operator may acquire land (including an interest in land) for the purposes of this Act. 5
- (2) Land that a network operator is authorised to acquire under this section may be acquired by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of this Act. 10
- (3) A network operator may not give a proposed acquisition notice under the *Land Acquisition (Just Terms Compensation) Act 1991* without the approval of the Minister.

### **Division 2 Powers and duties relating to electricity works**

#### **45 Erection and placement of electricity works**

- (1) This section applies to work connected with the erection, installation, extension, alteration, maintenance and removal of electricity works. 15
- (2) For the purposes of this Act, a network operator:
  - (a) may carry out work to which this section applies, and 20
  - (b) in particular, may carry out any such work on a public road or public reserve.
- (3) Work to which this section applies is exempt from the requirement for an approval under the *Local Government Act 1993* except in relation to buildings. 25
- (4) However, no such work (other than routine repairs or maintenance work) may be carried out unless:
  - (a) notice of the proposal to carry out the work has been given to the local council, and

- (b) the local council has been given a reasonable opportunity to make submissions to the network operator in relation to the proposal, and
  - (c) the network operator has given due consideration to any submissions so made. 5
- (5) Subsection (4) does not apply to the carrying out of work to cope with emergencies.

**46 Damage to be made good**

- (1) If a public road or public reserve is damaged by any work carried out by a network operator, the local council or roads authority may require the network operator to make good the damage without delay. 10
- (2) If the network operator fails to carry out appropriate work in accordance with any such requirement, the local council or roads authority may carry out the work itself. 15
- (3) The cost of carrying out the work may be recovered by the local council or roads authority in a court of competent jurisdiction as a debt owed to it by the network operator.

**47 Altering position of conduit**

- (1) A network operator may serve a written notice on a person if: 20
  - (a) the network operator needs an alteration to be made in the position of a conduit owned by the person, and
  - (b) the alteration would not permanently damage the conduit or adversely affect its operation.
- (2) The notice: 25
  - (a) must specify the work to be carried out, and
  - (b) must specify a reasonable time within which the work is to be carried out, and
  - (c) must include an undertaking by the network operator to pay the reasonable cost of carrying out the work. 30
- (3) If the work is not carried out as required by the notice, the network operator may carry out the work in a manner that does not permanently damage the conduit or adversely affect its operation.

- (4) In this section, **conduit** means anything that is in or under a public road (or any other land on which no building or other structure is located) and is used for the conveyance of a substance, energy or signals.

#### **48 Interference with electricity works by trees**

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- (1) This section applies if a network operator has reasonable cause to believe that a tree situated on any premises:
- (a) could destroy, damage or interfere with its electricity works, or
  - (b) could make its electricity works become a potential cause of bush fire or a potential risk to public safety. 10
- (2) In those circumstances, a network operator:
- (a) may serve a written notice on the owner of the premises requiring the owner to trim or remove the tree, or
  - (b) in an emergency, may, at its own expense, trim or remove the tree itself. 15
- (3) A notice under subsection (2) (a):
- (a) must specify the work to be carried out, and
  - (b) must specify a reasonable time within which the work is to be carried out, and 20
  - (c) must include an undertaking by the network operator to pay the reasonable cost of carrying out the work.
- (4) Subsection (3) (c) does not apply in either of the following circumstances:
- (a) if, after the electricity works were first laid or installed, an owner or occupier of the premises planted the tree, or caused or permitted the tree to be planted, in circumstances in which the owner or occupier ought reasonably to have known that destruction of, damage to or interference with the works would result, 25
  - (b) the land in or on which the tree is located, and on or over which the works are located, was the subject of an easement in favour of the network operator (or a predecessor of the network operator) when the tree was planted. 30
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- (5) If the work is not carried out as required by the notice, the network operator may carry out the work itself.
  - (6) The cost of carrying out the work may be recovered by the network operator in a court of competent jurisdiction as a debt owed to it by the owner of the premises on which the tree is situated, but only in the circumstances referred to in subsection (4). 5
  - (7) This section applies despite the existence of a tree preservation order or environmental planning instrument (other than a State environmental planning policy), but does not apply to any tree that is the subject of or is within an area that is the subject of: 10
    - (a) an interim conservation order or a permanent conservation order under the *Heritage Act 1977*, or
    - (b) an order in force under section 130 or 136 of the *Heritage Act 1977*, or 15
    - (c) an interim protection order under the *National Parks and Wildlife Act 1974*, or
    - (d) a protection conferred by any similar law.
  - (8) Nothing done for the purpose of carrying out the work required by a notice under this section constitutes an offence against any law under which a tree preservation order or environmental planning instrument (other than a State environmental planning policy) relating to the land is made. 20
  - (9) In this section, *tree* includes shrub or other plant.
- 49 Obstruction of electricity works** 25
- (1) This section applies if a network operator has reasonable cause to believe that any structure or thing placed in, on or near its electricity works is destroying, damaging or interfering with those works.
  - (2) In those circumstances, a network operator: 30
    - (a) may serve a written notice on the person having control of the structure or thing requiring that person to modify or remove it, or
    - (b) in an emergency, may, at its own expense, modify or remove the structure or thing itself. 35



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- (3) A notice under subsection (2) (a):
- (a) must specify the work to be carried out, and
  - (b) must specify a reasonable time within which the work is to be carried out, and
  - (c) must include an undertaking by the network operator to pay the reasonable cost of carrying out the work. 5
- (4) If the person fails to carry out the work in accordance with the requirement, the network operator may carry out the work itself.
- (5) The costs of:
- (a) carrying out the work, and 10
  - (b) repairing any damage done to the network operator's electricity works by the structure or thing,
- may be recovered by the network operator in a court of competent jurisdiction as a debt owed to it by the person.
- (6) A network operator may apply for an injunction to prevent a structure or thing being placed in, on or near its electricity works. 15

#### **50 Charges for placement of electricity works**

No annual or other periodic or special charge is payable by a network operator to a local council or roads authority in respect of any electricity works located in a public reserve or public road or in respect of the space in a public reserve or public road that is occupied by any such works. 20

#### **51 Ownership of electricity works**

- (1) A network operator is the owner of its electricity works, whether or not the land in, on or over which they are situated is owned by the network operator. 25
- (2) A network operator's electricity works are not to be taken in execution of any judgment against a person other than the network operator under any process of a court.

#### **52 Interruption to electricity supply for maintenance**

A network operator may interrupt the supply of electricity to a customer, at such reasonable times as the network operator determines: 30

- (a) for the purpose of inspecting, testing or carrying out repairs or maintenance work on its electricity works, or
- (b) for such other purpose as the network operator considers necessary for the safe and efficient operation of its electricity works.

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### **53 Liability for failure of electricity supply**

An electricity distributor is not liable for any loss suffered by any person as a consequence of any failure to supply electricity, or of any defect in that supply, if the failure or defect is caused:

- (a) by the breakdown of the electricity distributor's electricity works, or
- (b) by causes not within the electricity distributor's control.

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## **Division 3 Powers of entry**

### **54 Powers of entry**

- (1) An authorised officer may enter any premises for the purpose of exercising any function conferred or imposed on a network operator by or under this Act, including:
  - (a) carrying out preliminary investigations in connection with the proposed installation or extension of electricity works, or
  - (b) installing, extending, maintaining, repairing or removing electricity works, or
  - (c) reading electricity meters, or
  - (d) checking if the network operator's conditions relating to tariffs and the use of electricity are being complied with, or
  - (e) ascertaining whether an offence against this Act or the regulations has been committed.
- (2) Except in emergencies, the power of entry may be exercised only during daylight hours.

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### **55 Notice of entry**

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- (1) Before an authorised officer exercises a power of entry under this Division, the network operator must give the owner or occupier of the land written notice of the intention to enter the land.

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- (2) The notice must specify the day on which the authorised officer intends to enter the land and must be given before that day.
- (3) This section does not require notice to be given:
- (a) if entry to the land is made with the consent of the owner or occupier of the land, or 5
  - (b) if entry is required for the sole purpose of reading an electricity meter, or
  - (c) if entry is required in an emergency.

**56 Use of force**

- (1) Reasonable force may be used for the purpose of gaining entry to any land (other than such part of a building as is being used for residential purposes) under a power conferred by this Division, but only if authorised by the network operator in accordance with this section. 10
- (2) The authority: 15
- (a) must be in writing, and
  - (b) must be given in respect of the particular entry concerned, and
  - (c) must specify the circumstances that must exist before force may be used. 20

**57 Notification of use of force or urgent entry**

- (1) An authorised officer:
- (a) who uses force for the purpose of gaining entry to land, or
  - (b) who enters land in an emergency without giving written notice to the owner or occupier of the land, 25
- must promptly advise the network operator of that fact.
- (2) The network operator must give notice of the entry to such persons or authorities as appear to the network operator to be appropriate in the circumstances.

**58 Care to be taken**

- (1) In the exercise of a power under this Division, an authorised officer must do as little damage as possible. 30



- (2) As far as practicable, entry onto fenced land is to be made through an existing opening in the enclosing fence or, if entry through an existing opening is not practicable, through a new opening.
- (3) Any new opening is to be properly closed when the need for entry ceases. 5
- (4) If, in the exercise of a power under this Division, any pit, trench, hole or bore is made, the network operator must, if the owner or occupier of the land so requires:
  - (a) fence it and keep it securely fenced so long as it remains open or not sufficiently sloped down, and 10
  - (b) without unnecessary delay, fill it up or level it or sufficiently slope it down.

#### **59 Recovery of cost of entry and inspection**

If an authorised officer enters any land for the purpose of making an inspection and, as a result of the inspection, the network operator requires any work to be carried out on the land, the network operator may recover the reasonable costs of the entry and inspection from the owner or occupier of the land. 15

#### **60 Compensation 20**

The network operator must pay compensation to the owner of any land in respect of which a power has been exercised under this Division for any loss or damage arising from the exercise of the power, but is not so liable to the extent to which the loss or damage arises from work done for the purposes of an inspection which reveals that there has been a contravention by the owner of any provision of this Act or the regulations. 25

#### **61 Certificates of authority to enter land**

- (1) A power of entry under this Division may not be exercised by an authorised officer unless the authorised officer: 30
  - (a) is in possession of a certificate of authority issued by the network operator, and
  - (b) produces the certificate when required to do so by the owner or occupier of the land.



## (2) The certificate of authority:

- (a) must state that it is issued under this Act, and
- (b) must give the name of the person to whom it is issued, and
- (c) must describe the nature of the powers conferred and the source of those powers, and 5
- (d) must state the date (if any) on which it expires, and
- (e) must describe the kind of land to which the power extends, and
- (f) must be under the seal of the network operator or must bear the signature of the principal officer of the network operator, of a prescribed officer of the network operator or of an officer belonging to a prescribed class of officers of the network operator. 10

**62 Entry to residential premises**

A power of entry conferred by this Division is not exercisable in relation to such part of a building as is used for residential purposes except: 15

- (a) with the consent of the occupier of that part of the premises, or
- (b) for the sole purpose of reading an electricity meter, or 20
- (c) under the authority conferred by a warrant of entry.

**63 Warrants of entry**

- (1) A network operator may apply to an authorised justice if it is of the opinion that it is necessary for an authorised officer to enter and inspect any land (including any building used for residential purposes) for the purposes of this Act. 25
- (2) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a warrant of entry authorising an authorised officer named in the warrant to enter and inspect the land for the purposes of this Act. 30
- (3) Part 3 of the *Search Warrants Act 1985* applies to a warrant of entry under this section in the same way as it applies to a search warrant under that Act.
- (4) In this section, *authorised justice* has the same meaning as it has in the *Search Warrants Act 1985*. 35

## **Part 6 Offences**

### **Division 1 General offences**

#### **64 Theft of electricity**

A person must not abstract, cause to be wasted or diverted, consume or use any electricity from a generating, transmission or distribution system unless authorised to do so under a wholesale supply arrangement or customer supply contract. 5

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

#### **65 Interference with electricity works 10**

A person must not interfere with a network operator's electricity works unless authorised to do so by the network operator.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

#### **66 Interference with electricity meters 15**

A person must not alter or otherwise interfere with a meter that is connected to an electricity distributor's distribution system unless authorised to do so by the electricity distributor.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case). 20

#### **67 Interference with electricity distributor's seals**

A person must not alter or otherwise interfere with any seal that has been attached to an electrical installation by an electricity distributor unless authorised to do so by the electricity distributor.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case). 25

#### **68 Unauthorised connections**

A person must not connect an electrical installation to an electricity distributor's distribution system unless authorised to do so by the electricity distributor. 30

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

**69 Unauthorised increase in capacity of connections**

A person must not increase the capacity of an existing connection to an electricity distributor's distribution system unless authorised to do so by the electricity distributor.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case). 5

**70 Unauthorised alterations and additions to electrical installations**

A person must not alter or add to an electrical installation that is connected to an electricity distributor's distribution system so as to cause the supply of electricity to the installation or any part of it to be incorrectly metered unless authorised to do so by the electricity distributor. 10

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

**71 Obstruction of authorised officers** 15

A person must not:

- (a) prevent an authorised officer from exercising any function conferred or imposed on the authorised officer under this Act, or
- (b) hinder or obstruct an authorised officer in the exercise of any such function, or 20
- (c) impersonate an authorised officer.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case).

**Division 2 Restrictions on resupply of electricity** 25**72 Charges for the use of electricity prohibited**

- (1) A person to whose premises electricity is supplied under a wholesale supply arrangement or customer supply contract must not charge any other person for the use of electricity so supplied.

Maximum penalty: 200 penalty units (in the case of a corporation) and 50 penalty units (in any other case). 30



- (2) This section does not prohibit a person from imposing a separate charge for the use of a specified service or facility as a result of the fact that the use of that service or facility involves the consumption of electricity.
- (3) This section does not prohibit a landlord from imposing a charge for electricity supplied to a tenant if: 5
- (a) the quantity of electricity so supplied is measured by a separate electricity meter that complies with the regulations, and
- (b) the charge imposed for the electricity so supplied is no greater than the maximum allowable amount. 10
- (4) A landlord who charges a tenant for electricity supplied to the tenant:
- (a) must make such records relating to the electricity so supplied, and 15
- (b) must keep those records for such period, as may be prescribed by the regulations.
- (5) The regulations may require the landlord to furnish the tenant with a copy of any records made under this section.
- (6) In this section: 20
- landlord** means:
- (a) the owner or lessor of any premises, whether business, residential or otherwise, or
- (b) the proprietor or operator of the premises of any hotel, motel, inn, hostel, boarding or rooming house, holiday flats or cabins, manufactured home estate, caravan park or campsite or any other premises prescribed by the regulations. 25
- maximum allowable amount**, in relation to a quantity of electricity supplied during a specific period, means: 30
- (a) the amount prescribed by or calculated in accordance with the regulations for a similar quantity of electricity supplied during the same period, or



- (b) if no such regulations are in force, the amount that the local electricity distributor would have charged under a standard form customer supply contract for a similar quantity of electricity supplied during the same period.

*tenant* includes any person who occupies premises in respect of which some other person is a landlord. 5

### Division 3 Supplementary orders

#### 73 Local Court may order disconnection and discontinuance of electricity supply

- (1) A Local Court that finds a person guilty of an offence under Division 1 may make either or both of the following orders: 10
- (a) an order that the premises to which the offence relates be disconnected from the distribution system of the electricity distributor concerned, or
- (b) an order that the supply of electricity to those premises be discontinued. 15
- (2) An order under this section has effect regardless of the provisions of any customer connection contract, customer supply contract or wholesale supply arrangement.

#### 74 Local Court may order payment for electricity unlawfully charged for 20

A Local Court that finds a person guilty of an offence under Division 2 of unlawfully charging for the use of electricity may make an order directing the person to refund the whole, or such part as the Court considers appropriate, of any amount paid to the person in respect of that charge. 25

#### 75 Local Court may order payment for stolen electricity

A Local Court that finds a person guilty of an offence under section 64 of unlawfully causing electricity to be abstracted, wasted, diverted, consumed or used may make an order directing the person to pay to the wholesale or retail supplier concerned such amount as the Court considers appropriate for the electricity so wasted, diverted, consumed or used. 30

**76 Orders for payment operate as judgments**

- (1) An order under this Division for the payment of money:
  - (a) may be made by a Local Court on its own motion, or on the application of the wholesale or retail supplier concerned, at any time within 6 months after the date of the finding, and 5
  - (b) may be enforced in a Local Court exercising jurisdiction under the *Local Court (Civil Claims) Act 1970*.
- (2) Part 5 of the *Local Court (Civil Claims) Act 1970* applies to and in respect of such an order as if: 10
  - (a) the order were a judgment of the Local Court exercising that jurisdiction, and
  - (b) the amount ordered to be refunded were a judgment debt referred to in that Part, and
  - (c) the person against whom the order was made were a judgment debtor referred to in that Part, and 15
  - (d) the person in favour of whom the order was made were a judgment creditor referred to in that Part.
- (3) The remedy provided by this section is an alternative to any other remedy that may be available apart from this section. 20

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## Part 7 Administration

### Division 1 The Market and System Operator

#### 77 Appointment of Market and System Operator

- (1) TransGrid is the Market and System Operator for the purposes of this Act. 5
- (2) However, the Minister may appoint any other eligible person to be the Market and System Operator, in which case TransGrid ceases to be the Market and System Operator.
- (3) The Market and System Operator has the functions conferred or imposed on the Market and System Operator by or under this or any other Act or law. 10
- (4) The Market and System Operator is subject to the control and direction of the Minister.
- (5) The Market and System Operator must ensure that its affairs in its capacity as the Market and System Operator are kept separate from, and not influenced by, any of its other affairs. 15
- (6) In this section, *eligible person* means:
  - (a) any public authority, or
  - (b) any person prescribed by the regulations or belonging to a class of persons prescribed by the regulations. 20

#### 78 Principal functions of Market and System Operator

- (1) The principal functions of the Market and System Operator are as follows:
  - (a) ensuring the security and reliability of the State electricity supply system, 25
  - (b) regulating the conveyance of electricity to, from and along transmission systems,
  - (c) monitoring, controlling and co-ordinating the conveyance of electricity to, from and along transmission systems,



- (d) administering the operation of the wholesale market for electricity,
  - (e) regulating the measurement of the supply of electricity to, from and along transmission systems,
  - (f) preparing, publishing and supervising the implementation of rules, procedures and conditions of wholesale market operation in relation to its functions. 5
- (2) In preparing rules, procedures and conditions of wholesale market operation referred to in subsection (1) (f), the Market and System Operator must consult with the network operators and wholesale traders. 10
- (3) Without limitation, the Market and System Operator's conditions of wholesale market operation:
  - (a) must establish an access regime (within the meaning of the *Independent Pricing and Regulatory Tribunal Act 1992*) in relation to connections to transmission and distribution systems and the conveyance of electricity to, from and along transmission and distribution systems, and 15
  - (b) may include conditions with respect to network operations and wholesale trading generally, and 20
  - (c) may include conditions with respect to liability for any loss or damage for acts or omissions of the Market and System Operator or any network operator or wholesale trader.
- 79 Market and System Operator may impose fees on network operators** 25
  - (1) The Market and System Operator may require network operators and wholesale traders to pay to it such management fees as may be determined by the Minister to cover the costs incurred by the Market and System Operator in exercising its functions under this Act. 30
  - (2) It is a condition of a network operator's or wholesale trader's authorisation that the network operator or wholesale trader must comply with any such requirement.
- 80 System Control Fund**
  - (1) There is to be a System Control Fund. 35
  - (2) The System Control Fund is to be administered by the Market and System Operator.



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- (3) There is to be paid into the System Control Fund:
- (a) all money received by or on account of the Market and System Operator and payable to it as management fees by network operators and wholesale traders, and
  - (b) all money required to be paid into the System Control Fund by or under this or any other Act. 5
- (4) There may be paid from the System Control Fund:
- (a) the costs incurred by the Market and System Operator in exercising its functions under this Act in relation to system control, and 10
  - (b) all other payments required by or under this or any other Act to be paid from the System Control Fund.

**81 Market Operations Fund**

- (1) There is to be a Market Operations Fund.
- (2) The Market Operations Fund is to be administered by the Market and System Operator. 15
- (3) There is to be paid into the Market Operations Fund:
- (a) all money received by or on account of the Market and System Operator in connection with its operation and administration of the wholesale market for electricity (other than money payable to the Market Settlements Fund), and 20
  - (b) all money required to be paid into the Market and System Operations Fund by or under this or any other Act.
- (4) There may be paid from the Market Operations Fund: 25
- (a) the costs incurred by the Market and System Operator in exercising its functions under this Act in relation to its operation and administration of the wholesale market for electricity, and
  - (b) all other payments required by or under this or any other Act to be paid from the Market Operations Fund. 30

**82 Market Settlements Fund**

- (1) There is to be a Market Settlements Fund.
- (2) The Market Settlements Fund is to be administered by the Market and System Operator. 35

- (3) There is to be paid into the Market Settlements Fund:
  - (a) all money received by or on account of the Market and System Operator for payment to wholesale suppliers of electricity and other wholesale traders, and
  - (b) all money required to be paid into the Market Settlements Fund by or under this or any other Act. 5
- (4) There may be paid from the Market Settlements Fund:
  - (a) all money payable by the Market and System Operator to wholesale suppliers of electricity and other wholesale traders, and 10
  - (b) all other payments required by or under this or any other Act to be paid from the Market Settlements Fund.

## **Division 2 Distribution districts**

### **83 Distribution districts of electricity distributors**

- (1) Each electricity distributor listed in Schedule 3 has a distribution district comprising the local government areas, or parts of local government areas, described in that Schedule. 15
- (2) The boundaries of an electricity distributor's distribution district are unaffected by any change in the boundaries of a local government area and, for that purpose, the boundaries of the local government area are taken to remain the same as they were when the reference to the local government area was included in Schedule 3. 20

### **84 Variation of distribution districts**

- (1) The Governor may, by regulation, amend Schedule 3 so as: 25
  - (a) to vary the boundaries of an existing electricity distributor's distribution district, or
  - (b) to include the boundaries of the distribution district of an additional electricity distributor.
- (2) The regulations may contain provisions of a savings or transitional nature consequent on the variation or inclusion of any such boundaries. 30

- (3) Any such provision may, if the regulations so provide, take effect from the day on which the variation or inclusion of boundaries occurs or a later day.
- (4) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as: 5
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication. 10

#### **85 Transfer of staff, assets, rights and liabilities**

- (1) The Minister may direct, by order in writing, that any specified staff, assets, rights or liabilities of an electricity distributor whose distribution district is varied be transferred to such other electricity distributor as is specified in the order. 15
- (2) Such an order may be made on such terms and conditions as are specified in the order.
- (3) Schedule 4 applies to the transfer of staff, assets, rights or liabilities under this section. 20

### **Division 3 Customer consultative groups**

#### **86 Appointment of customer consultative groups**

- (1) An electricity distributor must, in accordance with any guidelines in force under this section, appoint at least one customer consultative group to act as a forum for consultation between the electricity distributor and its customers. 25
- (2) The Minister may, by order published in the Gazette, establish guidelines for the appointment of customer consultative groups.
- (3) An order under this section takes effect on the day on which it is published in the Gazette or on such later day as is specified in the order. 30



**87 Constitution of customer consultative groups**

- (1) Except to the extent to which the regulations otherwise provide, a customer consultative group must include members representing each of the following sections of the community:
  - (a) consumer groups, 5
  - (b) low-income households,
  - (c) persons living in rural and remote areas,
  - (d) domestic customers,
  - (e) industrial and commercial customers.
- (2) Except to the extent to which the regulations otherwise provide, a customer consultative group must meet at least twice a year. 10
- (3) In all other respects, the constitution and procedure of a customer consultative group are to be as determined by the electricity distributor.

**88 Functions of customer consultative groups** 15

- (1) A customer consultative group has such functions as are conferred or imposed on it by this Act or the regulations.
- (2) Except to the extent to which the regulations otherwise provide, the function of a customer consultative group is to provide information and advice on the following matters to the electricity distributor by which it is appointed: 20
  - (a) the form and content of the electricity distributor's standard form customer connection contracts and standard form customer supply contracts, and any amendments to those contracts, 25
  - (b) the effect on retail customers within its distribution district of any proposed changes in the way in which the electricity distributor operates,



- (c) any improvements in the way in which the electricity distributor operates that the customer consultative group believes would benefit retail customers within its distribution district,
- (d) such other matters as the electricity distributor and the customer consultative group agree should be the subject of such advice. 5

## **Division 4 General**

### **89 Non-franchise customers**

- (1) The Minister may, by order published in the Gazette, declare any specified person, or any specified class of persons, to be non-franchise customers for the purposes of this Act. 10
- (2) An order under this section takes effect on the day on which it is published in the Gazette or on such later day as is specified in the order. 15

### **90 Transmission systems**

- (1) The Minister may, by order published in the Gazette, declare any specified electricity power lines and associated equipment and electricity structures to be a transmission system for the purposes of this Act. 20
- (2) An order under this section takes effect on the day on which it is published in the Gazette or on such later day as is specified in the order.

### **91 Authorised officers**

- (1) A network operator may, in accordance with any guidelines in force under this section, appoint authorised officers for the purposes of this Act. 25
- (2) An authorised officer has such of the functions of the network operator by which he or she is appointed as are specified in the authorised officer's instrument of appointment. 30

Clause 91      Electricity Supply Bill 1995

Part 7           Administration  
Division 4

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- (3)    An authorised officer appointed by an electricity distributor may exercise those functions only within the distribution district of the electricity distributor by which he or she is appointed.
- (4)    The Minister may, by order published in the Gazette, establish guidelines for the appointment of authorised officers.
- (5)    An order under this section takes effect on the day on which it is published in the Gazette or on such later day as is specified in the order.

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## **Part 8      Appeals and resolution of disputes**

### **92   Appeals against decisions concerning authorisations and licences**

- (1) An applicant under Schedule 1 or 2 who is aggrieved by any of the following decisions of the Minister under that Schedule may appeal to the Supreme Court against the decision: 5
- (a) a decision cancelling an authorisation or licence,
  - (b) a decision imposing a condition on an authorisation or licence (other than a condition imposed when the authorisation or licence is granted), 10
  - (c) a decision varying the conditions of an authorisation or licence,
  - (d) a decision refusing an application for the transfer of an authorisation or licence,
  - (e) a decision imposing a monetary penalty on the holder of an authorisation or licence. 15
- (2) An appeal is to be by way of a new hearing and fresh evidence, or evidence in addition to or in substitution for the evidence on which the decision was made, may be given on the appeal.
- (3) For the purposes of an appeal, the Minister may certify in writing that a specified policy applies to the subject matter of the appeal. 20
- (4) In deciding an appeal to which such a certificate relates, the Supreme Court is required to apply the policy so certified, except to the extent to which the application of that policy would be contrary to law. 25
- (5) The decision of the Supreme Court in respect of an appeal is taken to be the decision of the Minister and is to be given effect to accordingly.

### **93   Customers may appeal against certain decisions**

- (1) Any person may appeal against: 30
- (a) the decision of an electricity distributor as to a charge payable by the person under a standard form customer connection contract, or



- (b) the decision of a retail supplier as to:
  - (i) the supplier's classification of the person as a franchise or non-franchise customer, or
  - (ii) a charge payable by the person under a standard form customer supply contract. 5
- (2) The procedures for making an appeal and for dealing with an appeal are to be as prescribed by the regulations.
- (3) Without limitation, the regulations may provide for the following matters:
  - (a) the summary dismissal of appeals, 10
  - (b) the referral of appeals to an arbitrator,
  - (c) the application to the matters raised by an appeal of principles determined by the Minister,
  - (d) the arbitrator's decision on an appeal to be final and binding on the parties to the appeal, 15
  - (e) the costs of arbitrating an appeal and the apportionment of those costs between the parties to the appeal.
- (4) This section does not apply to any matter in respect of which a consumer claims tribunal has jurisdiction under the *Consumer Claims Tribunals Act 1987*. 20

**94 Resolution of disputes between public authorities**

- (1) Any dispute arising under this Act between 2 or more public authorities may be resolved by agreement between the Ministers responsible for those authorities or, if agreement cannot be reached, by the Premier. 25
- (2) A public authority must comply with any direction arising out of the resolution of the dispute under this section.
- (3) This section does not apply while any other remedy is available under this Act for the resolution of the dispute.



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## Part 9      Miscellaneous

### 95    Unauthorised electricity supply arrangements unenforceable

An electricity supply arrangement is unenforceable by any person (other than a retail customer under a customer supply contract) unless, at the time the person entered into the arrangement, the person was authorised by an authorisation or licence to enter into the arrangement.

5

### 96    Customer connection contracts and customer supply contracts may be one document

Nothing in this Act prevents a customer connection contract and a customer supply contract from being embodied in a single document.

10

### 97    Delegation of Minister's functions

(1) The Minister may delegate to any eligible person any of the functions conferred or imposed on the Minister by or under this Act, other than this power of delegation.

15

(2) In this section, *eligible person* means:

- (a) any public authority, or
- (b) any person prescribed by the regulations or belonging to a class of persons prescribed by the regulations.

20

### 98    Directors and managers liable for offences committed by corporations

(1) If a corporation contravenes a provision of this Act or the regulations, each person who:

- (a) is a director of the corporation, or
- (b) is concerned in the management of the corporation,

25

is to be treated as having contravened that provision if the person knowingly authorised or permitted the contravention.

(2) A person may, under this section, be proceeded against and convicted for a contravention of that provision whether or not the corporation has been proceeded against or convicted for a contravention of that provision.

30

- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

**99 Proceedings for offences**

- (1) Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone. 5
- (2) Proceedings for an offence against this Act may instead be dealt with summarily before the Supreme Court in its summary jurisdiction. 10
- (3) Proceedings for an offence against this Act or the regulations may be instituted at any time within 2 years after the commission of the offence.
- (4) The maximum penalty that may be imposed by a Local Court in proceedings for an offence against this Act or the regulations is 100 penalty units (in the case of a corporation) and 50 penalty units (in any other case). 15
- (5) The maximum penalty that may be imposed by the Supreme Court in proceedings for an offence against this Act is the maximum penalty specified by the relevant section in respect of the offence. 20

**100 Recovery of monetary penalties**

Any monetary penalty imposed by the Minister on the holder of an authorisation may be recovered in any court of competent jurisdiction as a debt due to the Crown. 25

**101 Recovery of charges by network operators and wholesale or retail suppliers**

Any money due to a network operator or a wholesale or retail supplier may be recovered by it as a debt in any court of competent jurisdiction. 30

**102 Application of Act outside local government areas**

- (1) This Act applies to the unincorporated area as if:
- (a) references to a local government area were references to the unincorporated area, and

- 
- (b) references to a local council were references to the Western Lands Commissioner.
  - (2) This Act applies to Lord Howe Island as if:
    - (a) references to a local government area were references to Lord Howe Island, and 5
    - (b) references to a local council were references to the Lord Howe Island Board.
  - (3) The regulations may exempt the Lord Howe Island Board, and any matter relating to this Act in its application to Lord Howe Island, from the operation of any specified provision of this Act. 10

### 103 Regulations

- (1) The Governor may make regulations not inconsistent with this Act for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to the following matters: 15
  - (a) the functions of the Market and System Operator,
  - (b) the functions of customer consultative groups,
  - (c) the form, content and procedures for preparing and advertising standard form customer connection contracts and standard form customer supply contracts, 20
  - (d) the conditions that may be imposed on authorisations and licences,
  - (e) the functions of authorised officers,
  - (f) the records to be kept by network operators and wholesale and retail suppliers, 25
  - (g) the procedures to be observed by network operators in connection with calling for tenders and the matters in respect of which network operators must call for tenders,
  - (h) the removal or trimming of trees by electricity distributors, 30
  - (i) matters of a savings or transitional nature consequent on the making of an order under section 89.
- (2) The regulations may exempt:
  - (a) any specified person or class of persons, or



(b) any specified matter or class of matters,

from the operation of any one or more of sections 6, 8, 12 (a), 13, 16, 17 and 95.

- (3) A regulation may create an offence punishable by a penalty not exceeding 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case). 5

#### 104 Repeals

(1) The *Sydney Electricity Act 1990* is repealed.

(2) The following regulations are repealed:

- (a) *Sydney Electricity (Amalgamation of Electricity Distributors) (Transitional) Regulation 1995*, 10  
(b) *Sydney Electricity (Supply) Regulation 1992*.

#### 105 Amendment of other Acts and instruments

Each Act and instrument specified in Schedule 5 is amended as set out in that Schedule. 15

#### 106 Savings, transitional and other provisions

Schedule 6 has effect.

#### 107 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives. 20
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years. 25



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**Schedule 1 Authorisations**

(Sections 7 and 10)

**1 Authorisations**

- (1) Subject to any conditions imposed by or under this Act, a network operator's authorisation authorises its holder, and any other person specified in the authorisation, to operate the transmission or distribution system so specified for the purpose of conveying electricity for or on behalf of wholesale traders. 5
- (2) Subject to any conditions imposed by or under this Act, a wholesale trader's authorisation authorises its holder, and any other person specified in the authorisation: 10
- (a) to enter into wholesale supply arrangements, or
- (b) to buy, sell or otherwise deal in rights to the supply of electricity arising under wholesale supply arrangements, as so specified. 15

**2 Applications**

- (1) An application for an authorisation or for the transfer of an authorisation:
- (a) must be accompanied by such fee as may be determined by the Minister, and 20
- (b) must contain such information as may be determined by the Minister, and
- (c) must be lodged with the Market and System Operator.
- (2) An application for a wholesale trader's authorisation or for the transfer of a wholesale trader's authorisation (being an authorisation that authorises the proposed holder of the authorisation to enter into wholesale supply arrangements as a wholesale customer) may be made only by a non-franchise customer. 25

**3 Preliminary consideration of applications**

30

The Market and System Operator must consider any application made in relation to an authorisation and recommend to the Minister the action that the Minister should take on the application.

#### **4 Determination of applications**

- (1) The Minister may determine an application for an authorisation or for the transfer of an authorisation by granting or transferring the authorisation (either unconditionally or subject to conditions of the kind referred to in clause 6) or by refusing the application. 5
- (2) An application may be refused on the following grounds:
- (a) that the proposed holder of the authorisation fails to satisfy such technical or prudential criteria as have been adopted by the Minister to determine whether a person is able to operate a viable business as a network operator or wholesale trader, as the case may be, 10
  - (b) such grounds as may be prescribed by the regulations,
  - (c) such grounds as the Minister considers relevant, having regard to the need to promote a competitive wholesale market for electricity, to prevent misuse of market power and to ensure the security and reliability of the State electricity supply system. 15
- (3) The Minister must have regard to, but is not bound by, any recommendation under clause 3.

#### **5 Duration of authorisations** 20

Subject to the conditions imposed on it, an authorisation remains in force until it is cancelled.

#### **6 Conditions of authorisations**

- (1) An authorisation is subject to the following conditions:
- (a) the conditions imposed by this Act and the regulations, 25
  - (b) such other conditions (not inconsistent with those imposed by this Act and the regulations) as the Minister may from time to time impose in relation to the authorisation.
- (2) Without limitation, the Minister may impose the following kinds of conditions on an authorisation: 30
- (a) a condition specifying the period for which the authorisation is to remain in force,

- 
- |      |                                                                                                                                                                                                                                                                                                                                         |          |
|------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| (b)  | a condition requiring the holder of the authorisation to exercise its functions under this Act in accordance with specified guidelines or subject to specified restrictions,                                                                                                                                                            |          |
| (c)  | a condition requiring the holder of the authorisation to continue to satisfy such technical or prudential criteria as have been adopted by the Minister to determine whether a person is able to operate a viable business as a network operator or wholesale trader, as the case may be,                                               | 5        |
| (d)  | a condition requiring the holder of the authorisation to maintain specified insurance cover in respect of specified risks,                                                                                                                                                                                                              | 10       |
| (e)  | a condition requiring the affairs of the holder of the authorisation in relation to the operation of a transmission or distribution system to be kept separate, to the extent specified in the condition, from the affairs of the holder of the authorisation in relation to the supply of electricity,                                 | 15       |
| (f)  | a condition requiring the holder of the authorisation:                                                                                                                                                                                                                                                                                  |          |
| (i)  | to prepare, and submit to the Minister, a plan setting out (in accordance with guidelines established by the Minister) the holder's policies, practices and procedures with respect to the conduct of its affairs under the authorisation, and                                                                                          | 20       |
| (ii) | to conduct its affairs under the authorisation in accordance with the plan so prepared,                                                                                                                                                                                                                                                 |          |
| (g)  | a condition requiring the holder of the authorisation to furnish to the Minister (at such times and in respect of such periods as the Minister may determine) such information as the Minister may determine to enable the Minister to ascertain whether or not the holder is complying with the other conditions of the authorisation. | 25<br>30 |
| (3)  | A condition referred to in subclause (2) (e) may require separate affairs to be conducted by separate divisions of the same legal entity or by separate legal entities.                                                                                                                                                                 |          |
-



**7 Variation of conditions of authorisations**

On the recommendation of the Market and System Operator, the Minister may vary the conditions of an authorisation.

**8 Enforcement of authorisations**

- (1) On the recommendation of the Market and System Operator, the Minister may do either or both of the following: 5
- (a) the Minister may impose a monetary penalty not exceeding \$100,000 on the holder of an authorisation,
  - (b) the Minister may cancel an authorisation.
- (2) Action may be taken under this clause only if the holder of the authorisation has knowingly contravened: 10
- (a) the requirements of this Act or the regulations, or
  - (b) the conditions of the authorisation.

**9 Holder of authorisation to be notified of proposed action**

- The Minister must not take action under clause 6, 7 or 8 unless: 15
- (a) notice of the proposed action has been given to the holder of the authorisation, and
  - (b) the holder of the authorisation has been given a reasonable opportunity to make submissions with respect to the proposed action, and 20
  - (c) the Minister has given due consideration to any such submissions.



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**Schedule 2 Licences**

(Sections 14 and 33)

**1 Licences**

- (1) Subject to any conditions imposed by or under this Act, an electricity distributor's licence authorises its holder, and any other person specified in the licence, to operate the distribution system so specified for the purpose of conveying electricity for or on behalf of retail suppliers. 5
- (2) Subject to any conditions imposed by or under this Act, a retail supplier's licence authorises its holder, and any other person specified in the licence, to supply electricity to retail customers. 10

**2 Applications**

An application for a licence or for the transfer of a licence:

- (a) must be accompanied by such fee as may be determined by the Minister, and 15
- (b) must contain such information as may be determined by the Minister, and
- (c) must be lodged with the Minister.

**3 Public consultation**

- (1) Before determining an application for a licence or for the transfer of a licence, the Minister must cause notice of the application to be published in the Gazette and in a daily newspaper circulating throughout the State. 20
- (2) The notice must indicate:
- (a) the nature of the licence to which the application relates, and 25
- (b) the identity of the proposed holder of the licence, and
- (c) the area in which the licence, if granted or transferred, would operate, and
- (d) where submissions on the application should be lodged, and 30

Schedule 2 Licences

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- (e) the time (being not less than 40 days from the date on which the notice is published) within which any such submissions should be lodged, and
  - (f) such other matters as may be prescribed by the regulations. 5
- (3) The Minister must give due consideration to matters arising from any submissions under this clause.

**4 Determination of applications**

- (1) The Minister may determine an application for a licence or for the transfer of a licence by granting or transferring the licence (either unconditionally or subject to conditions of the kind referred to in clause 6) or by refusing the application. 10
- (2) An application may be refused on the following grounds:
  - (a) that the proposed holder of the licence fails to satisfy such technical or prudential criteria as have been adopted by the Minister to determine whether a person is able to operate a viable business as an electricity distributor or retail supplier, as the case may be, 15
  - (b) such grounds as may be prescribed by the regulations,
  - (c) such grounds as the Minister considers relevant, having regard to the need to promote a competitive retail market for electricity, to prevent misuse of market power and to ensure the security and reliability of the State electricity supply system. 20
- (3) The Minister must consult with the Minister administering the *Protection of the Environment Administration Act 1991* before granting a licence under this clause. 25

**5 Duration of licences**

Subject to the conditions imposed on it, a licence remains in force until it is cancelled. 30

**6 Conditions of licences**

- (1) A licence is subject to the following conditions:
  - (a) the conditions imposed by this Act and the regulations,
  - (b) such other conditions (not inconsistent with those imposed by this Act and the regulations) as the Minister may from time to time impose in relation to the licence. 35

- 
- (2) Without limitation, the Minister may impose the following kinds of conditions on a licence:
- (a) a condition specifying the period for which the licence is to remain in force,
  - (b) a condition requiring the holder of the licence to exercise its functions under this Act in accordance with specified guidelines or subject to specified restrictions, 5
  - (c) a condition requiring the holder of the licence to continue to satisfy such technical or prudential criteria as have been adopted by the Minister to determine whether a person is able to operate a viable business as an electricity distributor or retail supplier, as the case may be, 10
  - (d) a condition requiring the holder of the licence to maintain specified insurance cover in respect of specified risks,
  - (e) a condition requiring the affairs of the holder of the licence in relation to the operation of a distribution system to be kept separate, to the extent specified in the condition, from the affairs of the holder of the licence in relation to the supply of electricity, 15
  - (f) a condition requiring the holder of the licence: 20
    - (i) to prepare, and submit to the Minister, a plan setting out (in accordance with guidelines established by the Minister) the holder's policies, practices and procedures with respect to the conduct of its affairs under the licence, and 25
    - (ii) to conduct its affairs under the licence in accordance with the plan so prepared,
  - (g) a condition requiring the holder of the licence to furnish to the Minister (at such times and in respect of such periods as the Minister may determine) such information as the Minister may determine to enable the Minister to ascertain whether or not the holder is complying with the other conditions of the licence. 30
-



Schedule 2 Licences

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- (3) A condition referred to in subclause (2) (e) may require separate affairs to be conducted by separate divisions of the same legal entity or by separate legal entities.
- (4) Without limitation, the Minister may also impose the following kinds of conditions on a retail supplier's licence: 5
- (a) a condition requiring the holder of the licence to develop demand management strategies,
- (b) a condition requiring the holder of the licence to prepare and publish annual reports in relation to the following matters: 10
- (i) the implementation of its demand management strategies,
- (ii) the emissions arising from the production of the electricity supplied by it,
- (iii) its performance in meeting the minimum standards of service required under its standard form customer supply contracts, 15
- (iv) the sources of the electricity supplied by it and the quantity of electricity supplied from those sources as proportions of the total electricity supplied by it. 20
- (5) The Minister must consult with the Minister administering the *Protection of the Environment Administration Act 1991* before imposing conditions on a licence under this clause.

**7 Variation of conditions of licences**

- (1) The Minister may vary the conditions of a licence. 25
- (2) The Minister must consult with the Minister administering the *Protection of the Environment Administration Act 1991* before varying the conditions of a licence under this clause.



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**8 Enforcement of licences**

- (1) The Minister may do either or both of the following:
  - (a) the Minister may impose a monetary penalty not exceeding \$100,000 on the holder of a licence,
  - (b) the Minister may cancel a licence. 5
- (2) A retail supplier's licence held by an electricity distributor must not be cancelled unless the electricity distributor's licence held by the electricity distributor is also cancelled.
- (3) Action may be taken under this clause only if the holder of the licence has knowingly contravened: 10
  - (a) the requirements of this Act or the regulations, or
  - (b) the conditions of the licence.

**9 Holder of licence to be notified of proposed action**

The Minister must not take action under clause 6, 7 or 8 unless:

- (a) notice of the proposed action has been given to the holder of the licence, and 15
- (b) the holder of the licence has been given a reasonable opportunity to make submissions with respect to the proposed action, and
- (c) the Minister has given due consideration to any such submissions. 20

Electricity Supply Bill 1995

Schedule 3 Distribution districts

**Schedule 3 Distribution districts**

(Sections 83 and 84)

| Name                   | Distribution district |                            |
|------------------------|-----------------------|----------------------------|
| Energy South           | Albury                | Hume                       |
|                        | Bega Valley           | Jerilderie                 |
|                        | Berrigan              | Junee                      |
|                        | Bland                 | Leeton                     |
|                        | Bombala               | Lockhart                   |
|                        | Boorowa               | Mulwaree                   |
|                        | Carrathool            | Murray                     |
|                        | Conargo               | Murrumbidgee               |
|                        | Coolamon              | Narrandera                 |
|                        | Cooma-Monaro          | Queanbeyan                 |
|                        | Cootamundra           | Snowy River                |
|                        | Corowa                | Tallaganda                 |
|                        | Crookwell             | Temora                     |
|                        | Culcairn              | Tumbarumba                 |
|                        | Deniliquin            | Tumut                      |
|                        | Eurobodalla           | Urana                      |
|                        | Goulburn              | Wagga Wagga                |
|                        | Griffith              | Wakool (part)              |
|                        | Gundagai              | Windouran (part)           |
|                        | Gunning               | Yarrowlumla                |
|                        | Harden                | Yass                       |
|                        | Hay                   | Young                      |
|                        | Holbrook              |                            |
| Far West Energy        | Balranald             | Wentworth                  |
|                        | Broken Hill           | Windouran (part)           |
|                        | Central Darling       | Unincorporated area (part) |
|                        | Wakool (part)         |                            |
| Lord Howe Island Board | Lord Howe Island      |                            |

## Electricity Supply Bill 1995

## Distribution districts

## Schedule 3

| Name            | Distribution district |                |
|-----------------|-----------------------|----------------|
| MetNorth Energy | Ashfield              | Merriwa (part) |
|                 | Auburn                | Mosman         |
|                 | Bankstown             | Muswellbrook   |
|                 | Botany                | Newcastle      |
|                 | Burwood               | North Sydney   |
|                 | Canterbury            | Pittwater      |
|                 | Cessnock              | Port Stephens  |
|                 | Concord               | Randwick       |
|                 | Drummoyne             | Rockdale       |
|                 | Gosford               | Ryde           |
|                 | Hornsby               | Scone          |
|                 | Hunters Hill          | Singleton      |
|                 | Hurstville            | South Sydney   |
|                 | Kogarah               | Strathfield    |
|                 | Ku-ring-gai           | Sutherland     |
|                 | Lake Macquarie        | Sydney         |
|                 | Lane Cove             | Warringah      |
|                 | Leichhardt            | Waverley       |
|                 | Maitland              | Willoughby     |
|                 | Manly                 | Woollahra      |
|                 | Marrickville          | Wyang          |
| MetSouth Energy | Baulkham Hills        | Liverpool      |
|                 | Blacktown             | Parramatta     |
|                 | Blue Mountains        | Penrith        |
|                 | Camden                | Rylstone       |
|                 | Campbelltown          | Shellharbour   |
|                 | Fairfield             | Shoalhaven     |
|                 | Greater Lithgow       | Wingecaribee   |
|                 | Hawkesbury            | Wollondilly    |
|                 | Holroyd               | Wollongong     |
|                 | Kiama                 |                |

Electricity Supply Bill 1995

Schedule 3 Distribution districts

| Name            | Distribution district |                |
|-----------------|-----------------------|----------------|
| MidState Energy | Bathurst              | Gilgandra      |
|                 | Blayney               | Lachlan        |
|                 | Bogan                 | Merriwa (part) |
|                 | Cabonne               | Mudgee         |
|                 | Cobar                 | Narromine      |
|                 | Coolah                | Oberon         |
|                 | Coonabarabran         | Orange         |
|                 | Coonamble             | Parkes         |
|                 | Cowra                 | Warren         |
|                 | Dubbo                 | Weddin         |
|                 | Evans                 | Wellington     |
|                 | Forbes                |                |
|                 |                       |                |
|                 |                       |                |
|                 |                       | 5              |
|                 |                       | 10             |





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## **Schedule 4 Transfer of staff, assets, rights and liabilities**

(Section 85)

### **1 Application and interpretation**

- (1) This Schedule applies to any transfer of staff, assets, rights or liabilities under section 85. 5
- (2) In this Schedule, the person or body from which any staff, assets, rights or liabilities are transferred is called the transferor and the person or body to whom they are transferred is called the transferee. 10

### **2 Transfer of staff**

A member of staff who is transferred by a transfer to which this Schedule applies is (until other provision is duly made under any Act or law) to be employed in accordance with any relevant statutory provisions, awards, agreements and determinations that would have applied to the person had the person not been transferred but remained a member of staff of the transferor. 15

### **3 Vesting of undertaking in transferee**

- (1) When any assets, rights or liabilities are transferred by a transfer to which this Schedule applies, the following provisions have effect: 20
  - (a) the assets of the transferor vest in the transferee by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
  - (b) the rights or liabilities of the transferor become by virtue of this clause the rights or liabilities of the transferee, 25
  - (c) all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee, 30

- 
- (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee, 5
      - (e) a reference in any Act, in any instrument made under any Act or in any document of any kind to the transferor or a predecessor of the transferor is (to the extent to which it relates to those assets, rights or liabilities) taken to include a reference to the transferee. 10
    - (2) The operation of this clause is not to be regarded:
      - (a) as a breach of contract or confidence or otherwise as a civil wrong, or
      - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or 15
      - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability. 20
    - (3) The operation of this clause is not to be regarded as an event of default under any contract or other instrument.
    - (4) No attornment to the transferee by a lessee from the transferor is required. 25
    - (5) A transfer is subject to the terms and conditions of the order by which it is effected.
    - (6) No compensation is payable to any person or body in connection with a transfer to which this Schedule applies except to the extent (if any) to which the order giving rise to the transfer so provides. 30
    - (7) Subclause (6) does not affect the rights of any member of staff who is the subject of a transfer to which this Schedule applies.

#### 4 Date of vesting

- A transfer to which this Schedule applies takes effect on the date specified in the order by which it is effected. 35



## **5 Consideration for vesting**

The Minister may, by order in writing, specify the consideration on which a transfer to which this Schedule applies is made and the value or values at which the assets, rights or liabilities are transferred.

5

## **6 Stamp duty**

Stamp duty is not chargeable for or in respect of:

- (a) a transfer to which this Schedule applies, or
- (b) anything certified by the Minister as having been done in consequence of such a transfer (for example, the transfer or conveyance of an interest in land).

10

## **7 Confirmation of vesting**

- (1) The Minister may, by notice in writing, confirm a transfer of particular assets, rights or liabilities by operation of this Schedule.
- (2) Such a notice is conclusive evidence of that transfer.

15

## **8 Definitions**

In this Schedule:

**assets** means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

20

**liabilities** means any liabilities, debts or obligations (whether present or future and whether vested or contingent).

**rights** means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent).

25



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## Schedule 5    Amendment of other Acts and instruments

(Section 105)

### 5.1    Electricity Act 1945 (1946 No 13)

#### [1]    Section 1 Short title

5

Omit the section. Insert instead:

##### 1 Short title

This Act is the *Electricity Safety Act 1945*.

#### [2]    Section 2

Omit the section.

10

#### [3]    Section 4 Definitions

Omit the definition of *Electricity Council* from section 4 (1).

#### [4]    Section 4 (1)

Omit paragraph (c) from the definition of *Electricity supply authority*.

15

#### [5]    Parts 2, 2A, 3AA, 3A, 3B, 3C, 4, 4A, 5A, 6 and 6A

Omit the Parts.

#### [6]    Section 6FB Water supply functions conferred on electricity distributors

Insert after section 6FB (5):

20

- (6)    Subject to the terms of the order by which any staff, assets, rights or liabilities are transferred under this section:

Electricity Supply Bill 1995

Schedule 5 Amendment of other Acts and instruments

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- (a) this section applies to the person or body to which any such staff, assets, rights or liabilities are transferred in the same way as it applies to the electricity distributor from which the staff, assets, rights or liabilities were transferred, and 5
- (b) the person or body to which any such staff, assets, rights or liabilities are transferred is taken to be an electricity distributor for the purposes of this section and to be an electricity distributor exercising water supply functions under this Act for the purposes of any other Act or law in which that expression occurs. 10

**[7] Section 9 Additional functions of Energy Corporation**

Omit section 9 (1) (a) (i)–(vi) and (2).

**[8] Sections 13A, 13B and 14 15**

Omit the sections.

**[9] Section 25 Power of entry**

Omit “or by any electricity distributor or Sydney Electricity” from section 25 (1).

**[10] Section 25 (4) 20**

Omit “or an electricity distributor or Sydney Electricity”.

**[11] Section 30 Theft of electricity**

Omit the section.

---

**[12] Section 37 Regulations**

Omit section 37 (2) (a1), (a2), (b1), (c1), (e), (e1), (e2), (g), (ee), (ff), (gg), (ii), (jj), (kk), (ll), (mm), (nn) and (rr).

**[13] Section 37 (2) (qq)**

Omit "or Sydney Electricity".

5

**[14] Schedules 1, 2, 3, 7, 8 and 10**

Omit the Schedules.

**[15] Schedule 11 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Electricity Supply Act 1995.*

10

**[16] Schedule 11, Part 6**

Insert after Part 5:

**Part 6 Provisions consequent on the enactment of  
Electricity Supply Act 1995**

**23 Abolition of the Electricity Council**

15

- (1) The Electricity Council is abolished.
- (2) Part 8 of the *Public Sector Management Act 1988* applies to each member of the Electricity Council as if the member had been removed from office by the Governor under section 90 of that Act.

20

**24 Abolition of Electricity Development Fund**

- (1) The Electricity Development Fund is abolished.

- (2) The assets of the Electricity Development Fund become part of the Consolidated Fund.

**25 Continuation of Part 3AA of the former Act**

Part 3AA continues to apply to and in respect of an electricity supply authority within the meaning of that Part in relation to any insurance policy or self-insurance scheme referred to in section 14AAA that was in force immediately before the repeal of that Part. 5

**26 Continuation of Part 3A of the former Act**

Part 3A continues to apply to and in respect of any account rendered by an electricity supply authority in relation to an accounting period that commenced before the repeal of that Part. 10

**27 References in other legislation**

A reference in any other Act or instrument to the *Electricity Act 1945* is to be read as a reference to the *Electricity Safety Act 1945*. 15

**5.2 Electricity (Pacific Power) Act 1950 No 22**

**[1] Section 3 Definitions**

Omit the definitions of *By-laws* and *Prescribed* from section 3 (1). 20

**[2] Section 3 (1)**

Omit paragraph (b) of the definition of *Electricity supply authority*.  
Insert instead:

- (b) an electricity distributor within the meaning of the *Electricity Supply Act 1995*, or 25



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**[3] Section 3 (1)**

Omit paragraph (c) of the definition of *Electricity supply authority*.

**[4] Part 2, heading**

Omit "THE COMMISSION". Insert instead "PACIFIC POWER".

**[5] Part 3, heading**

5

Omit "THE COMMISSION". Insert instead "PACIFIC POWER".

**[6] Section 9 Principal functions of Pacific Power**

Omit section 9 (2).

**[7] Section 12 Commission to supply sufficient electricity for railways and road transport**

10

Omit the section.

**[8] Part 3, Division 6**

Omit the Division.

**[9] Part 4 Acquisition of electricity undertakings**

Omit the Part.

15

**[10] Section 55**

Omit the section.

Electricity Supply Bill 1995

Schedule 5 Amendment of other Acts and instruments

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**[11] Section 66 Employees guilty of misconduct**

Omit "or by-law" from section 66 (1).

**[12] Section 66 (1)**

Omit "by-law,".

**[13] Section 73B Public sector executives**

5

Omit "or by-laws".

**[14] Part 8, Division 1**

Omit the Division (section 83 excepted).

**[15] Section 83 No compensation in respect of failure of supply**

Insert at the end of the section:

10

- (2) This section does not apply to the extent to which liability is imposed on Pacific Power by or under the *Electricity Supply Act 1995*.

**[16] Part 8, Division 2, heading**

Omit "and By-laws".

15

**[17] Section 88 By-laws**

Omit the section.

**[18] Section 89 Penalty for breach of regulations**

Omit "or by-law".

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**[19] Section 90 Application of regulations**

Omit "or by-law" from section 90 (2).

**[20] Section 95 Recovery of penalties**

Omit "or by-laws" from section 95 (1).

**[21] Section 96 Recovery of charges**

5

Omit "or any by-law".

**[22] Schedule 7 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Electricity Supply Act 1995.*

**5.3 Electricity Transmission Authority Act 1994 No 64**

10

**[1] Section 3 Definitions**

Omit the definition of *electricity supply authority*. Insert instead:

*electricity distributor* has the same meaning as it has in the *Electricity Supply Act 1995*.

*electricity generator* has the same meaning as it has in the *Electricity Supply Act 1995*.

15

*electricity supply authority* means an electricity generator or an electricity distributor.

**[2] Section 5 Ministerial control**

Omit section 5 (8) (a).

20

Electricity Supply Bill 1995

Schedule 5 Amendment of other Acts and instruments

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- [3] **Section 6 Principal functions of the Authority**  
Omit section 6 (d) and (e1).
- [4] **Sections 7, 8 and 10**  
Omit the sections.
- [5] **Section 25 Application of certain provisions to subsidiary companies** 5  
Omit section 25 (1) (b).
- [6] **Section 32 Establishment of Funds**  
Omit section 32 (b), (c) and (d).
- [7] **Section 33 Transmission Authority General Fund** 10  
Omit “, other than money that is required to be paid into the System Control Fund, the Market Operations Fund or the Market Settlements Fund” from section 33 (1) (a).
- [8] **Section 33 (2) (a)**  
Omit “(other than staff engaged in system control or in the development, implementation, operation or administration of the wholesale market for electricity)”. 15
- [9] **Sections 34, 34A and 34B**  
Omit the sections.
- [10] **Section 38 No liability for failure to supply** 20  
Insert “and except to the extent that liability is imposed on the Authority (whether in relation to its functions as a network operator or as the Market and System Operator) by or under the *Electricity Supply Act 1995*” after “agrees” in section 38 (1).



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**[11] Sections 39, 41, 43 and 44**

Omit the sections.

**[12] Schedule 2A Further savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Electricity Supply Act 1995.*

5

**[13] Schedule 2A, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of  
Electricity Supply Act 1995**

**5 Abolition of System Control Fund**

10

- (1) The System Control Fund is abolished.
- (2) On the commencement of this clause, the assets of the System Control Fund become assets of the System Control Fund established under the *Electricity Supply Act 1995*.

15

**6 Abolition of Market Operations Fund**

- (1) The Market Operations Fund is abolished.
- (2) On the commencement of this clause, the assets of the Market Operations Fund become assets of the Market Operations Fund established under the *Electricity Supply Act 1995*.

20

**7 Abolition of Market Settlements Fund**

- (1) The Market Settlements Fund is abolished.
- (2) On the commencement of this clause, the assets of the Market Settlements Fund become assets of the Market Settlements Fund established under the *Electricity Supply Act 1995*.

25

**5.4 Energy Administration Act 1987 No 103**

**[1] Section 3 Definitions**

Omit “, holding office as such under the *Public Service Act 1979*”  
from the definition of *Director* in section 3 (1).

**[2] Section 9 Staff**

5

Omit “*Public Service Act 1979*” from section 9 (1).  
Insert instead “*Public Sector Management Act 1988*”.

**[3] Section 12 Functions**

Omit section 12 (e).

**[4] Section 28 Appointment of qualified person to investigate certain industrial matters**

10

Omit the definition of *industrial matter* in section 28 (1).  
Insert instead:

*industrial matter* has the meaning ascribed to the  
expression *industrial matters* by section 4 (1) of the  
*Industrial Relations Act 1991*.

15

**[5] Section 35 Energy Administration Account**

Omit section 35 (2) (c).

**[6] Section 37 Operation of certain other Acts**

Omit “*State Emergency Services and Civil Defence Act 1972*” from  
section 37 (1).  
Insert instead “*State Emergency and Rescue Management Act  
1989*”.

20

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**5.5 Fish River Water Supply Administration Act 1945 No 16**

**[1] Section 8A Fixing price of water**

Omit “, or by any electricity distributor (within the meaning of the *Electricity Act 1945*) exercising the water supply functions of a council,” from section 8A (2).

5

**[2] Section 8A (2)**

Omit “, or by any such electricity distributor,”.

**5.6 Land Tax Management Act 1956 No 26**

**Section 10 Land exempted from tax**

Insert after “specified in the regulations” in section 10 (1) (n) “(being an energy services corporation within the meaning of the *Energy Services Corporations Act 1995*, an electricity distributor that holds an authorisation or licence to operate an electricity distribution system under the *Electricity Supply Act 1995* or a gas distributor that holds an authorisation under the *Gas Act 1986*)”.

10

15

**5.7 Local Government Act 1919 No 41**

**[1] Section 327 (5)**

Omit the subsection.

**[2] Section 331A (4)**

Omit the subsection.

20

**5.8 Local Government Act 1993 No 30**

**[1] Chapter 6, Part 3, Division 2 Water supply, sewerage and stormwater drainage works and facilities**

Omit the note appearing after the heading to the Division.

**[2] Chapter 6, Part 3, Division 3 Private works**

5

Omit the note appearing after the heading to the Division.

**[3] Chapter 7, Introduction**

Omit from the Introduction to the Chapter:

Clause 1 of Schedule 9 provides that Parts 1, 2, 3 and 5 of this Chapter apply to and in respect of an electricity distributor exercising water supply functions under the *Electricity Act 1945*. Clause 1 also provides that the references to a council in those Parts extend to an electricity distributor exercising water supply functions under the *Electricity Act 1945*. 10  
15

**[4] Section 68 What activities, generally, require the approval of the council?**

Omit from the Note to the section:

Clause 2 of Schedule 9 provides that the reference to a council in this section extends to an electricity distributor exercising water supply functions under the *Electricity Act 1945*, but only in relation to approvals of the kind referred to in items 1, 2 and 3 of Part B of the Table to this section. 20

**[5] Section 124 What orders may be given, in what circumstances and to whom? 25**

Omit the note appearing at the end of the section.



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**[6] Section 128 Catchment districts**

Omit the note appearing at the end of the section.

**[7] Chapter 15, Introduction**

Omit from the Introduction to the Chapter:

Clause 1 of Schedule 9 provides that this Chapter 5  
applies to and in respect of an electricity distributor  
exercising water supply functions under the *Electricity*  
*Act 1945*. Clause 1 also provides that the references to a  
council in this Chapter extend to an electricity distributor  
exercising water supply functions under the *Electricity* 10  
*Act 1945*.

**[8] Section 581 Reimbursement of councils by Parliament**

Omit the note appearing at the end of the section.

**[9] Chapter 16, Introduction**

Omit from the Introduction to the Chapter: 15

Clause 1 of Schedule 9 provides that Parts 1 and 3 of  
this Chapter apply to and in respect of an electricity  
distributor exercising water supply functions under the  
*Electricity Act 1945*. Clause 1 also provides that the  
references to a council in those Parts extend to an 20  
electricity distributor exercising water supply functions  
under the *Electricity Act 1945*.

**[10] Section 626 Failure to obtain approval**

Omit the note appearing at the end of the section.

**[11] Section 627 Failure to comply with approval**

25

Omit the note appearing at the end of the section.

**[12] Chapter 17, Introduction**

Omit from the Introduction to the Chapter:

Clause 1 of Schedule 9 provides that this Chapter applies to and in respect of an electricity distributor exercising water supply functions under the *Electricity Act 1945*. Clause 1 also provides that the references to a council in this Chapter extend to an electricity distributor exercising water supply functions under the *Electricity Act 1945*. 5

**[13] Chapter 17, Part 2, Division 5 Sale of land for unpaid rates and charges 10**

Omit the note appearing after the heading to the Division.

**[14] Chapter 18, Part 4**

Omit the Part.

**[15] Schedule 9 15**

Omit the Schedule.

**5.9 Roads (General) Regulation 1994**

**Clause 79 Public authorities**

Insert after clause 79 (2):

- (3) For the purposes of the definition of *public authority* in the Dictionary to the Act, an energy services corporation within the meaning of the *Energy Services Corporations Act 1995* is prescribed as a public authority for the purposes of the Act. 20

---

**5.10 Search Warrants Act 1985 No 37**

**Section 10 Definitions**

Insert in the definition of *search warrant* in alphabetical order of Acts:

section 63 of the *Electricity Supply Act 1995*,

5

**5.11 South-west Tablelands Water Supply Administration Act 1941 No 36**

**Section 8A Fixing price of water**

Omit “, or to any electricity distributor (within the meaning of the *Electricity Act 1945*) exercising the water supply functions of a council,” from section 8A.

10

**5.12 Traffic Act 1909 No 5**

**[1] Section 10ZA Definitions**

Omit the definition of *electricity distributor*. Insert instead:

*distribution district* of an electricity distributor means the electricity distributor’s distribution district within the meaning of the *Electricity Supply Act 1995*.

15

*electricity distributor* means an electricity distributor within the meaning of the *Electricity Supply Act 1995*.

**[2] Section 10ZA**

20

Omit “within the meaning of the *Electricity Act 1945*” from the definition of *electricity structure*.

---

## **Schedule 6 Savings, transitional and other provisions**

(Section 106)

### **Part 1 Preliminary**

#### **1 Regulations**

5

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

*Electricity Supply Act 1995*

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day. 10
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or 15
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication. 20

### **Part 2 Provisions consequent on enactment of Electricity Supply Act 1995**

#### **Division 1 Provisions relating to Electricity Safety Act 1945**

##### **2 Definitions**

25

In this Division:

**amended Act** means the *Electricity Safety Act 1945*, as amended by this Act.



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**3 Action taken under Division 7 of Part 2A of the amended Act**

Any action taken by an electricity distributor under Division 7 of Part 2A of the amended Act in relation to any premises is deemed to have been taken by the electricity distributor within whose distribution district those premises are situated.

5

**4 Requirements of statutory bodies under section 7J of the amended Act**

Any requirement of a statutory body under section 7J of the amended Act that applied to an electricity distributor immediately before its repeal in relation to anything done by the electricity distributor in, on or over a public road or public reserve is taken to apply to the electricity distributor within whose distribution district the relevant part of the public road or public reserve is situated.

10

**5 Approvals by an electricity distributor under section 7K of the amended Act**

15

Any approval by an electricity distributor under section 7K of the amended Act that had effect immediately before its repeal in relation to the erection or placement of anything is taken to be an approval by the electricity distributor within whose distribution district the relevant part of that thing is situated.

20

**6 Requirements of an electricity distributor under section 7M of the amended Act**

Any requirement of an electricity distributor under section 7M of the amended Act that applied to a person immediately before its repeal in relation to a conduit owned by that person is taken to be a requirement of the electricity distributor within whose distribution district the relevant part of the conduit is situated.

25

**7 Action by an electricity distributor under section 7N of the amended Act**

30

Any action taken by an electricity distributor under section 7N of the amended Act before its repeal in relation to:

- (a) the demolition or removal of a structure or thing, or
- (b) the repair of a work,

is deemed to have been taken by the electricity distributor within whose distribution district the relevant part of the work is situated.

5

**8 Documents served on an electricity distributor under section 7V of the amended Act**

Any document served on an electricity distributor in accordance with section 7V of the amended Act before its repeal in relation to a matter concerning a particular place is taken to have been duly served on the electricity distributor within whose distribution district that place is situated.

10

**9 Continuation of Part 3C of the amended Act**

Part 3C of the amended Act continues to apply to and in respect of any charges for electricity supplied by an electricity supply authority within the meaning of that Act in relation to an accounting period that commenced before its repeal.

15

**10 Conditions of electricity connection and supply**

Until a customer connection contract or customer supply contract comes into force with respect to a customer of an electricity distributor, the conditions on which customer connection services and electricity supply are provided to the customer are to be the same as those that applied to the customer under section 26D of the amended Act immediately before its repeal.

20

25

**Division 2 Provisions relating to Sydney Electricity Act 1990**

**11 Definitions**

In this Division:

*former Act* means the *Sydney Electricity Act 1990*.

30

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**12 Dissolution of Sydney Electricity**

Sydney Electricity (being the corporation constituted by section 4 of the former Act) is dissolved.

**13 Abolition of board of directors**

- (1) The board of directors for Sydney Electricity (being the body established by section 8 of the former Act) is abolished. 5
- (2) Part 8 of the *Public Sector Management Act 1988* applies to each member of the board of directors for Sydney Electricity as if the member had been removed from office by the Governor under section 90 of that Act. 10

**14 Removal from office of chief executive officer**

- (1) The office of chief executive officer of Sydney Electricity is abolished.
- (2) Part 2A of the *Public Sector Management Act 1988* applies to the chief executive officer of Sydney Electricity as if the chief executive officer had been removed from office by the Governor under section 42Q of that Act. 15

**Division 3 General****15 Regulations**

The *Electricity (Tree Preservation) Regulation 1995* is taken to be a regulation under this Act and may be amended and repealed accordingly. 20

**16 Certain persons taken to hold authorisations and licences**

- (1) TransGrid is taken to hold:
  - (a) a network operator's authorisation authorising it to operate its transmission system for the purpose of conveying electricity for or on behalf of wholesale traders, and 25
  - (b) a wholesale trader's authorisation authorising it to enter into any kind of wholesale supply arrangement. 30



Schedule 6 Savings, transitional and other provisions

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- (2) Pacific Power, and each electricity generator (within the meaning of the *Energy Services Corporations Act 1995*) that was in existence when this clause commenced, is taken to hold a wholesale trader's authorisation authorising it to enter into any kind of wholesale supply arrangement. 5
  - (3) Each electricity distributor that was in existence when this clause commenced is taken to hold:
    - (a) a network operator's authorisation authorising it to operate its distribution system so as to convey electricity, for or on behalf of wholesale traders, to, from and along TransGrid's transmission system, and 10
    - (b) a wholesale trader's authorisation authorising it to enter into any kind of wholesale supply arrangement, and
    - (c) an electricity distributor's licence authorising it to operate its distribution system so as to convey electricity for or on behalf of retail suppliers, and 15
    - (d) a retail supplier's licence authorising it to supply electricity to retail customers.
  - (4) The Lord Howe Island Board is taken to hold:
    - (a) an electricity distributor's licence authorising it to operate its distribution system so as to convey electricity for or on behalf of retail suppliers, and 20
    - (b) a retail supplier's licence authorising it to supply electricity to retail customers.
  - (5) Schedules 1 and 2 apply to authorisations and licences that are taken to be held as referred to in subclauses (1), (2), (3) and (4) in the same way as they apply to authorisations and licences granted in accordance with those Schedules. 25
- 17 Review of distribution district boundaries to be carried out within 2 years** 30
- (1) Within 2 years after the commencement of this clause, the Minister must cause a review to be undertaken for the purpose of ascertaining whether it is appropriate for the boundaries of electricity distributors' distribution districts to be varied.



- 
- (2) The review is to be undertaken by a committee of at least 3 persons appointed by the Minister, of whom:
- (a) one is to be a public servant employed within the Treasury, and
  - (b) one is to be a public servant employed within the Department of Energy, and 5
  - (c) the remainder (of whom one is to be appointed as chairperson) are such persons (whether or not public servants) as the Minister may determine.
- (3) Subject to any directions given by the Minister, the procedures of the committee are to be determined by the committee. 10

#### **18 Existing electricity supply arrangements**

Sections 8 and 95 do not apply to electricity supply arrangements (including any covenants, promises, guarantees, obligations, undertakings, liabilities and other agreements in relation to the supply of electricity) entered into before the commencement of that section. 15

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## Dictionary

(Section 4)

**authorisation** means a network operator's authorisation or wholesale trader's authorisation.

**authorised officer** means an authorised officer appointed under section 91. 5

**council** means the council of a local government area.

**customer** means a wholesale customer or a retail customer.

**customer connection contract** means a standard form customer connection contract or a negotiated customer connection contract.

**customer connection service** means any of the following services: 10

- (a) the connection of any premises to an electricity distributor's distribution system, or
- (b) an increase in the maximum capacity of any premises' existing connection to an electricity distributor's distribution system.

**customer consultative group** means a customer consultative group referred to in section 86. 15

**customer supply contract** means a standard form customer supply contract or a negotiated customer supply contract.

**distribution district** of an electricity distributor specified in Schedule 3 means the distribution district described in that Schedule in relation to the distributor. 20

**distribution system** means the electricity power lines and associated equipment and electricity structures that are used to convey and control the conveyance of electricity to the premises of wholesale and retail customers, but does not include a transmission system. 25

**electrical installation** means the electrical wiring and associated equipment that are used to convey and control the conveyance of electricity within premises to which electricity is supplied from a distribution system, but does not include anything connected to and extending or situated beyond an electrical outlet socket. 30

**electricity distributor** means a person who owns or controls a distribution system.

**electricity distributor's licence** means a licence referred to in section 14.

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***electricity generator*** means a person who owns or controls a generating system.

***electricity structure*** means any structure (other than a building) that is used to carry overhead lines or associated equipment, and includes any structure that is used for the purposes of street lighting. 5

***electricity works*** means any electricity power lines or associated equipment or electricity structures that form part of a transmission or distribution system.

***exercise*** a function includes perform a duty.

***franchise customer*** means a person who is not a non-franchise customer, but does not include an electricity generator, electricity distributor or transmission operator. 10

***function*** includes a power, authority or duty.

***generating system*** means the electrical equipment and associated electricity structures that are used to generate electricity for supply to a transmission or distribution system. 15

***licence*** means an electricity distributor's licence or a retail supplier's licence.

***Market and System Operator*** means the Market and System Operator referred to in section 77. 20

***negotiated customer connection contract*** means a contract entered into under Division 3 of Part 3.

***negotiated customer supply contract*** means a contract entered into under Division 3 of Part 4.

***network operator*** means a transmission operator or electricity distributor. 25

***network operator's authorisation*** means an authorisation referred to in section 7.

***non-franchise customer*** means a person who is a non-franchise customer by virtue of an order in force under section 89, but does not include an electricity generator, electricity distributor or transmission operator. 30

***premises*** includes any building or part of a building, any structure or part of a structure, any land (whether built on or not) and any river, lake or other waters.



**public authority** means a public or local authority constituted by or under an Act or a statutory body representing the Crown, and includes a Minister and a statutory State owned corporation and its subsidiaries.

**retail customer** means a person to whose premises electricity is supplied under a customer supply contract. 5

**retail supplier** means a person who supplies electricity under a customer supply contract.

**retail supplier's licence** means a licence referred to in section 33.

**roads authority** has the same meaning as it has in the *Roads Act 1993*.

**standard form customer connection contract** means a contract entered into under Division 2 of Part 3. 10

**standard form customer supply contract** means a contract entered into under Division 2 of Part 4.

**supply**, in relation to electricity, means the supply of electricity by means of a transmission or distribution system. 15

**TransGrid** means the Electricity Transmission Authority constituted by the *Electricity Transmission Authority Act 1994*.

**transmission operator** means a person who owns or controls a transmission system.

**transmission system** means any electricity power lines and associated equipment and electricity structures that are a transmission system by virtue of an order in force under section 90. 20

**unincorporated area** means such part of the land within the Western Division of the State as is not within a local government area.

**wholesale customer** means a person to whose premises electricity is supplied under a wholesale supply arrangement. 25

**wholesale market access regime** means an access regime established by the Market and System Operator's conditions of wholesale market operation, as referred to in section 78 (3) (a).

**wholesale supplier** means a person who supplies electricity under a wholesale supply arrangement. 30

**wholesale supply arrangement** means an arrangement (other than a customer supply contract) for the supply of electricity.



***wholesale trader*** means a person:

- (a) who enters into wholesale supply arrangements, or
- (b) who buys, sells or otherwise deals in rights to the supply of electricity arising under wholesale supply arrangements.

***wholesale trader's authorisation*** means an authorisation referred to in section 10. 5

