

**ENERGY LEGISLATION (MISCELLANEOUS AMENDMENTS)
ACT 1994 No. 82**

NEW SOUTH WALES



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**ENERGY LEGISLATION (MISCELLANEOUS AMENDMENTS)
ACT 1994 No. 82**

NEW SOUTH WALES



Act No. 82, 1994

An Act to amend the Electricity Act 1945 in relation to the constitution of the Electricity Council, the functions of electricity distributors and other matters, the Gas Act 1986 in relation to the supply of gas, the Local Government Act 1993 in relation to the exercise of water supply functions by electricity distributors, the Pipelines Act 1967 in relation to pipelines and pipeline licences and the Sydney Electricity Act 1990 in relation to the functions of Sydney Electricity; and to make minor or consequential amendments to those and other Acts and instruments. [Assented to 12 December 1994]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Energy Legislation (Miscellaneous Amendments) Act 1994.

Commencement

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

Amendment of Electricity Act 1945 (1946 No. 13)

3. The Electricity Act 1945 is amended as set out in Schedule 1.

Amendment of Gas Act 1986 No. 213

4. The Gas Act 1986 is amended as set out in Schedule 2.

Amendment of Local Government Act 1993 No. 30

5. The Local Government Act 1993 is amended as set out in Schedule 3.

Amendment of Pipelines Act 1967 No. 90

6. The Pipelines Act 1967 is amended as set out in Schedule 4.

Amendment of Sydney Electricity Act 1990 No. 117

7. The Sydney Electricity Act 1990 is amended as set out in Schedule 5.

Consequential amendment of other Acts and instruments

8. Each Act and instrument referred to in Schedule 6 is amended as set out in that Schedule.

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945

(Sec. 3)

(1) Section 4A:

After section 4, insert:

Notes in this Act

4A. Notes appearing in the text of this Act are explanatory notes only and do not form part of this Act.

(2) Section 5 (**Constitution of the Electricity Council**):

Omit section 5 (3), (4) and (3), insert instead:

(3) The Electricity Council is to consist of 16 part-time members appointed by the Minister, of whom:

(a) one is to be a person nominated by the Labor Council of New South Wales; and

(b) at least one is to be a person nominated by the Electricity Association of New South Wales.

(4) The Minister must have regard to the interests of consumers of electricity when appointing the members of the Electricity Council.

(5) If either of the bodies referred to in subsection (3) (a) or (b) fails to nominate a person within such time as the Minister may direct by notice in writing served on the body concerned, the Minister may appoint some other person as a member of the Electricity Council, and the person so appointed is taken to have been duly appointed as such a member.

(3) Section 6C (**Principal functions of electricity distributor**):

In section 6C (1) (a), after “electricity”, insert “, including the transmission and distribution of electricity on behalf of other persons”.

(4) Sections 6FA, 6FB:

After section 6F, insert:

Third party access to electricity transmission systems

6FA. (1) As far as reasonably practicable, an electricity distributor:

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945—
continued

- (a) must allow other persons and bodies (including persons and bodies outside New South Wales) to have access to its electricity transmission system and electricity transmission network services; and
- (b) must ensure that access to the system and services is provided on a non-discriminatory basis.

(2) The regulations may make provision with respect to the provision of access to electricity distributors' electricity transmission systems and electricity transmission network services.

(3) In this section, “**electricity transmission system**” means transmission lines, substations and associated structures, equipment and works used for the distribution of electricity.

Water supply functions conferred on electricity distributors

6FB. (1) This section applies to the following electricity distributors:

- (a) Northern Riverina Electricity;
- (b) Oxley Electricity;
- (c) Southern Riverina Electricity.

(2) An electricity distributor to which this section applies may, within its distribution district, exercise the water supply functions of a council under the Local Government Act 1993 as if it were a council and its distribution district were the area of a council.

Note. The exercise of an electricity distributor's water supply functions is governed by Schedule 9 to the Local Government Act 1993. Part 1 of that Schedule modifies the provisions of the Local Government Act 1993, and Part 2 of that Schedule modifies the provisions of this Act, in their application to an electricity distributor exercising water supply functions under this section.

(3) The Minister may direct, by order in writing, that any specified staff, assets, rights or liabilities of an electricity distributor to which this Part applies (being staff, assets, rights or liabilities with respect to the

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945—
continued

electricity distributor's water supply functions) be transferred to such person or body as is specified in the order.

(4) Such an order may be made on such terms and conditions as are specified or referred to in the order.

(5) Schedule 3 applies to the transfer of staff, assets, rights or liabilities under this section.

(5) Section 6K (**Tendering**):

After section 6K (3), insert:

(4) An electricity distributor that invites tenders from selected persons only is taken to comply with the requirements of this section if those persons are selected:

- (a) from persons who have responded to a public advertisement for expressions of interest in the particular contract for which tenders are being invited; or
- (b) from persons who have responded to a public advertisement for recognition as recognised contractors with respect to contracts of the same kind as that for which tenders are being invited.

(6) Section 6N (**Constitution of board of electricity distributor**):

After section 6N (5), insert:

(6) The Electoral Commissioner for New South Wales, or a person employed in the office of the Electoral Commissioner and nominated by the Electoral Commissioner for the purposes of subsection (1) (a):

- (a) is the returning officer for any election conducted for the purposes of that paragraph; and
- (b) has the functions conferred or imposed on the returning officer by the regulations in relation to the election.

(7) Section 6Y (**Authorised persons**):

Omit "this Part" wherever occurring, insert instead "this Division".

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945—
continued

(8) Section 13B (**Electricity supply authority to notify Corporation of certain matters**):

After section 13B (2), insert:

(3) The Minister may, by notice in writing, waive the requirement for the giving of notice under this section, extend the period within which such notice must be given or reduce the period prior to the relevant variation taking effect within which such notice must be given.

(9) Section 14AAE (**Application of Part to other bodies**):

(a) After “section 7H”, insert “and includes other persons and bodies that exercise (whether in New South Wales or elsewhere) functions similar to those exercised by electricity supply authorities and that are declared by the Minister, by order published in the Gazette, to be electricity supply authorities for the purposes of this Part”.

(b) At the end of section 14AAE, insert:

(2) Such an order may not be made except on the written request, or with the written consent, of the person or body concerned.

(10) Section 14AA (**Definitions**):

From section 14AA (1), omit the definitions of “dwelling” and “eligible pensioner”, insert instead:

“**dwelling**” means a building, or part of a building, or a moveable dwelling within the meaning of the Local Government Act 1993:

- (a) that is used as a place of living; and
- (b) that is supplied with electricity by an electricity supply authority or by the proprietor or operator of a caravan park or manufactured home estate; and
- (c) that is separately metered by that electricity supply authority, proprietor or operator;

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945—
continued

"eligible pensioner", in relation to a dwelling, means a person:

- (a) who is a member of a class of persons prescribed by the regulations; and
- (b) who occupies the dwelling as the person's sole or principal place of living.

(11) Section 14F (**Payment of subsidies for pensioner rebates**):

In section 14F (1), after "the Electricity Development Fund", insert "or the Energy Administration Account established under section 35 of the Energy Administration Act 1987".

(12) Section 19AB (**Contributions by electricity distributors, Sydney Electricity and Commission**):

From section 19AB (1), omit "and the Industrial Development Assistance Fund".

(13) Section 19F (**Definitions**):

From the definition of "electricity structure", omit "a council", insert instead "an electricity distributor or Sydney Electricity".

(14) Section 20 (**Definitions**):

From section 20 (1), omit the definitions of "approved testing facility", "declaration of compliance" and "qualified person".

(15) Section 21A (**Sale of certain electrical articles**):

From section 21A (1) (a) (iii), omit "the Electrical Safety TypeTest Scheme or the Electrical Safety StandardsMark Scheme conducted by or on behalf of Standards Australia", insert instead "a certification scheme approved by the Minister for the purposes of this Part".

(16) Section 21C (**Approval of type of electrical article**):

- (a) In section 21C (2) (b), after "sought that", insert "is in the form approved by the Director and".

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945—
continued

- (b) From section 21C (2) (c), omit “has been submitted to that test conducted by a qualified person at an approved testing facility and has been found by a qualified person to have complied with that standard”, insert instead “has been submitted to that test and has been found to have complied with that standard”.
 - (c) From section 21C (4) and (8), omit “and to the relevant authority, if any, for each other State and each Territory” wherever occurring.
- (17) Section 21D (**Guarantee to be a defence in certain circumstances**):
- (a) In section 21D (1) (a) after “Territory”, insert “or certified in accordance with a certification scheme approved by the Minister for the purposes of this Part”.
 - (b) In section 21D (2) (b) (i) after “Territory”, insert “or certified in accordance with a certification scheme approved by the Minister for the purposes of this Part”.
- (18) Section 27 (**Restrictions on supply of electricity**):
- After section 27 (2), insert:
- (3) An approval may be given generally or in relation to any particular agreement or class of agreements.
- (19) Section 27AA (**Restrictions on certain works**):
- After section 27AA (1), insert:
- (1A) An approval may be given generally or in relation to any particular case or class of cases.
- (20) Section 27A (**Definitions**):
- In paragraph (b) of the definition of “person to whom this Part applies”, after “cabins”, insert “manufactured home estate”.
- (21) Schedule 1 (**Provisions relating to the members of the Electricity Council of New South Wales**):
- (a) From clause 5 (1), omit “(other than a member who is the chairman or an employee of a council, a public servant or the General Manager of the Electricity Commission)”.
 - (b) Omit clause 5 (2).

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945—
continued

(22) Schedule 3:

After Schedule 2, insert:

**SCHEDULE 3—TRANSFER OF STAFF, ASSETS,
RIGHTS AND LIABILITIES**

(Sec. 6FB)

Application and interpretation

1. (1) This Schedule applies to transfers of staff, assets, rights or liabilities under section 6FB from an electricity distributor to some other person or body.

(2) In this Schedule, the electricity distributor from which any staff, assets, rights or liabilities are transferred is called the transferor and the person or body to whom they are being so transferred is called the transferee.

Transfer of staff

2. (1) 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 the 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 an electricity distributor.

(2) The relevant statutory provisions are the provisions of Schedule 10 and the regulations relating to the employment of staff.

Vesting of undertaking in transferee

3. (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 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;

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945—
continued

- (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;
 - (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.

Date of vesting

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

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945—
*continued***Consideration for vesting**

5. 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.

Stamp duty

6. 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).

Confirmation of vesting

7. (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.

Definitions

8. 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).

(23) Schedule 10 (Staff of electricity distributors):

From clause 5 (2) (a), omit “Classification and”, insert instead “Classifications and”.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945—
continued

(24) Schedule 11 (**Savings, transitional and other provisions**):

(a) At the end of clause 1 (1), insert:

Energy Legislation (Miscellaneous Amendments) Act 1994.

(b) Omit clause 7.

(c) After Part 3, insert:

**PART 4—PROVISIONS CONSEQUENTIAL ON THE
ENACTMENT OF THE ENERGY LEGISLATION
(MISCELLANEOUS AMENDMENTS) ACT 1994**

Definition

16. In this Part, “**the amending Act**” means the Energy Legislation (Miscellaneous Amendments) Act 1994.

Constitution of the Electricity Council

17. The members of the Electricity Council, as constituted under section 5 immediately before the commencement of this clause, cease to hold office on that commencement.

Certification of electrical articles

18. An article that was duly certified as referred to in section 21A (1) (a) (iii) immediately before the commencement of the amendment to that subparagraph effected by the amending Act is taken to have been duly certified as referred to in that subparagraph as so amended.

SCHEDULE 2—AMENDMENT OF GAS ACT 1986

(Sec. 4)

(1) Section 4 (**Reticulation of gas**):

In section 4 (1), after “another person”, insert “, or transmits gas on behalf of another person,”.

(2) Section 5 (**Application of Act**):

(a) From section 5 (3), omit “franchise granted under the Local Government Act 1919”, insert instead “delegation from a local authority”.

SCHEDULE 2—AMENDMENT OF GAS ACT 1986—*continued*

(b) After section 5 (3), insert:

(4) The regulations may exempt any gas distributor or class of gas distributors from the operation of all or specified provisions of this Act, and any such exemption has effect accordingly,

(3) Section 17 (**Special provision for alterations involving third party access to distribution system**):

From section 17 (3) (a), omit “all affected gas users”, insert instead “gas users generally”.

SCHEDULE 3—AMENDMENT OF LOCAL GOVERNMENT ACT 1993

(Sec. 5)

(1) Chapter 6, Part 3, Division 2 (**Water supply, sewerage and stormwater drainage works and facilities**):

After the heading to the Division, insert:

NOTE: Clause 1 of Schedule 9 provides that this Division 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 Division extend to an electricity distributor exercising water supply functions under the Electricity Act 1945.

(2) Chapter 6, Part 3, Division 3 (**Private works**):

After the heading to the Division, insert:

NOTE: Clause 1 of Schedule 9 provides that this Division 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 Division extend to an electricity distributor exercising water supply functions under the Electricity Act 1945.

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SCHEDULE 3—AMENDMENT OF LOCAL GOVERNMENT ACT
1993—*continued*

(3) Chapter 7, Introduction:

At the end of the Introduction to the Chapter, insert:

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?**):

At the end of the Note to the section, insert the following matter:

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?**):

At the end of the section, insert:

NOTE: Clause 3 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 orders nos. 5 (h), 23 and 30 in the Table to this section.

(6) Section 128 (**Catchment districts**):

At the end of the section, insert:

NOTE: Clause 4 of Schedule 9 provides that, in the case of a catchment district that is within the distribution district of an electricity distributor exercising water supply functions under the Electricity Act 1945, the compensation referred to in subsection (2) is payable by the electricity distributor.

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SCHEDULE 3—AMENDMENT OF LOCAL GOVERNMENT ACT
1993—*continued*

(7) Chapter 15, Introduction:

At the end of the Introduction to the Chapter, insert:

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**):

At the end of the section, insert:

NOTE: Clause 5 of Schedule 9 provides that the reference in this section to the Minister is to be read, in its application to an electricity distributor exercising water supply functions under the Electricity Act 1945, as a reference to the Minister administering that Act.

(9) Section 626 (**Failure to obtain approval**):

At the end of the section, insert:

NOTE: Clause 6 of Schedule 9 provides that a reference to the prior approval of the council in this section is to be read, in relation to an approval required to be given by an electricity distributor exercising water supply functions under the Electricity Act 1945, as a reference to the prior approval of the electricity distributor.

(10) Section 627 (**Failure to comply with approval**):

At the end of the section, insert:

NOTE: Clause 7 of Schedule 9 provides that a reference to the approval of the council in this section is to be read, in relation to an approval required to be given by an electricity distributor exercising water supply functions under the Electricity Act 1945, as a reference to the approval of the electricity distributor.

SCHEDULE 3—AMENDMENT OF LOCAL GOVERNMENT ACT
1993—*continued*

(11) Chapter 16, Introduction:

At the end of the Introduction to the Chapter, insert:

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.

(12) Chapter 17, Introduction:

At the end of the Introduction to the Chapter, insert:

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**):

After the heading to the Division, insert:

NOTE: Clause 8 of Schedule 9 provides that this Division does not apply to or in respect of an electricity distributor exercising water supply functions under the Electricity Act 1945.

(14) Chapter 18, Part 4:

After Part 3 of Chapter 18, insert:

**PART 4—PROVISIONS CONCERNING
ELECTRICITY DISTRIBUTORS EXERCISING
WATER SUPPLY FUNCTIONS**

Provisions concerning electricity distributors exercising water supply functions

750. Schedule 9 has effect in relation to an electricity distributor exercising water supply functions under section 6FB of the Electricity Act 1945.

SCHEDULE 3—AMENDMENT OF LOCAL GOVERNMENT ACT
1993—*continued*

(15) Schedule 9:

After Schedule 8, insert:

**SCHEDULE 9—PROVISIONS CONCERNING
ELECTRICITY DISTRIBUTORS EXERCISING
WATER SUPPLY FUNCTIONS**

(Sec. 750)

PART 1—APPLICATION OF THIS ACT

Application of this Act

1. (1) The following provisions of this Act apply to an electricity distributor exercising water supply functions under the Electricity Act 1945:

- (a) Divisions 2 and 3 of Part 3 of Chapter 6 (What are the service functions of councils?);
- (b) Parts 1, 2, 3 and 5 of Chapter 7 (What are the regulatory functions of councils?);
- (c) Chapter 15 (How are councils financed?);
- (d) Parts 1 and 3 of Chapter 16 (Offences);
- (e) Chapter 17 (Enforcement);
- (f) the Dictionary.

(2) The references to a council in the provisions referred to in subsection (1) extend to an electricity distributor exercising water supply functions under the Electricity Act 1945.

(3) The provisions referred to in subclause (1) apply with the modifications set out in this Part.

Modification of section 68 (What activities, generally, require the approval of the council?)

2. The reference to a council in section 68 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 that section.

Energy Legislation (Miscellaneous Amendments) Act 1994 No. 82

SCHEDULE 3—AMENDMENT OF LOCAL GOVERNMENT ACT
1993—*continued*

Modification of section 124 (What orders may be given, in what circumstances and to whom?)

3. The reference to a council in section 124 extends to an electricity distributor exercising water supply functions under the Electricity Act 1945, but only in relation to orders nos. 5 (h), 23 and 30 in the Table to that section.

Modification of section 128 (Catchment districts)

4. Section 128 must be read as if, in the case of a catchment district that is within the distribution district of an electricity distributor exercising water supply functions under the Electricity Act 1945, the compensation referred to in subsection (2) of that section were payable by the electricity distributor.

Modification of section 581 (Reimbursement of councils by Parliament)

5. The reference in section 581 to the Minister is to be read, in its application to an electricity distributor exercising water supply functions under the Electricity Act 1945, as a reference to the Minister administering that Act.

Modification of section 626 (Failure to obtain approval)

6. A reference to the prior approval of the council in section 626 is to be read, in relation to an approval required to be given by an electricity distributor exercising water supply functions under the Electricity Act 1945, as a reference to the prior approval of the electricity distributor.

Modification of section 627 (Failure to comply with approval)

7. A reference to the approval of the council in section 627 is to be read, in relation to an approval required to be given by an electricity distributor exercising water supply functions under the Electricity Act 1945, as a reference to the approval of the electricity distributor.

SCHEDULE 3—AMENDMENT OF LOCAL GOVERNMENT ACT
1993—*continued*

Exclusion of Division 5 of Part 2 of Chapter 17 (Sale of land for unpaid rates and charges)

8. Division 5 of Part 2 of Chapter 17 does not apply to or in respect of any rate or charge payable to an electricity distributor exercising water supply functions under the Electricity Act 1945.

Modification of Dictionary

9. The reference to a council in the definition of “water supply work” in the Dictionary extends to an electricity distributor exercising water supply functions under the Electricity Act 1945.

Regulations

10. The regulations may make further provision with respect to the application of the provisions referred to in clause 1 (1) to an electricity distributor exercising water supply functions under the Electricity Act 1945.

**PART 2—APPLICATION OF ELECTRICITY ACT
1945**

Application of Electricity Act 1945

11. The Electricity Act 1945 applies to an electricity distributor exercising water supply functions under the Electricity Act 1945 with the modifications set out in this Part.

Modification of section 6E (Operations of electricity distributors)

12. (1) The reference to the functions of an electricity distributor related to the supply of electricity in section 6E extends to the water supply functions of an electricity distributor.

(2) The reference to electricity in section 6E (c) extends to water.

Modification of section 6Z (Power of entry)

13. The reference to electricity property in section 6Z extends to works of water supply.

Energy Legislation (Miscellaneous Amendments) Act 1994 No. 82

SCHEDULE 3—AMENDMENT OF LOCAL GOVERNMENT ACT
1993—*continued*

Modification of section 7 (Notice of entry)

14. The reference to electricity in section 7 (2) (c) extends to water.

Modification of section 7D (Recovery of costs of entry and inspection)

15. The reference to property or works in section 7D extends to works of water supply.

Modification of section 7F (Discontinuance of supply following refusal of access or obstruction)

16. The reference to electricity in section 7F extends to water.

Modification of section 7I (Discontinuance of supply for failure to pay)

17. The reference to electricity in section 7I extends to water.

Modification of section 7J (Power to break up roads)

18. The reference to the erection of an electric line or other thing relating to the distribution of electricity in section 75 (1) (d) extends to the construction of works of water supply.

Modification of section 70 (Distributor's fittings not to be taken in execution)

19. The reference to any meter, fitting, insulator, apparatus or work in section 70 extends to works of water supply.

Regulations

20. The regulations may make further provision with respect to the application of the Electricity Act 1945 to an electricity distributor exercising water supply functions under that Act.

SCHEDULE 4—AMENDMENT OF PIPELINES ACT 1967

(Sec. 6)

(1) Section 3 (**Definitions**):

From the definition of “licence” in section 3 (1), omit “to construct and operate a pipeline and to construct, install and use apparatus or works”.

(2) Section 11 (**Construction and operation of pipelines**):

After section 11 (2), insert:

(2A) Without limiting subsection (2), a person must not operate a pipeline whose construction is commenced or completed under, or under an authority granted under, an Act of the Commonwealth except under and in pursuance of a licence under this Act.

(3) Section 12 (**Application for licence**):

After section 12 (2), insert:

(3) An application for a licence,, not being a renewal of a licence, may also be made to the Minister by a person who proposes to operate a pipeline whose construction has been commenced or completed under an Act of the Commonwealth if the pipeline is located:

- (a) on lands that the person owns; or
- (b) on lands in respect of which the person holds an easement; or
- (c) on lands in respect of which the person has a contractual right of use or access; or
- (d) on lands in respect of which the person has any combination of the entitlements referred to in paragraphs (a)–(c),

and may be so made whether or not the person is or has been the holder of a permit.

(4) Section 13 (**Manner of making applications for licences**):

- (a) From section 13 (1) and (3), omit “section 12 (1)” wherever occurring, insert instead “section 12”.

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SCHEDULE 4—AMENDMENT OF PIPELINES ACT 1967—
continued

- (b) From section 13 (1) (d) (i), omit “on lands in respect of which the applicant is, or has been, as mentioned in section 12 (1), the holder of a permit”.
- (c) After section 13 (1), insert:
 - (1A) In the case of an application under section 12 (1), the locations shown on the plan referred to in subsection (1) (d) must all be on lands in respect of which the applicant is, or has been, the holder of a permit.
- (5) **Section 13A (Amendment of application for licence by the inclusion of additional lands in, or the exclusion of lands from, the area to which the application relates):**
 - (a) From section 13A (2), omit “section 12 (1)”, insert instead “section 12”.
 - (b) In section 13A (11) (b) and (12) (b), before “the plan which” wherever occurring, insert “in the case of an application under section 12 (1),”.
- (6) **Section 13B (Amendment of application for licence in other cases):**

From section 13B (1), omit “section 12 (1)”, insert instead “section 12”.
- (7) **Section 14 (Grant of licence):**
 - (a) From section 14 (1) (a) (i), omit “section 12 (1) and section 13 (1) and (4) and the applicant has complied with section 13 (2) (where applicable) and section 13 (3)”, insert instead “sections 12 and 13”.
 - (b) From section 14 (2), omit “section 12 (1)”, insert instead “section 12”.
- (8) Section 70:

After section 69, insert:

Savings, transitional and other provisions

70. Schedule 1 has effect.

Energy Legislation (Miscellaneous Amendments) Act 1994 No. 82

SCHEDULE 4—AMENDMENT OF PIPELINES ACT 1967—
continued

(9) Schedule 1:

At the end of the Act, insert:

**SCHEDULE 1—SAVINGS TRANSITIONAL AND
OTHER PROVISIONS**

(Sec. 70)

Part 1—Preliminary**Regulations**

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

Energy Legislation (Miscellaneous Amendments) Act 1994.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent to that Act or from a later date.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of the person existing before the date of publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of any thing done or omitted to be done before the date of publication.

**Part 2—Provisions consequent on enactment of
Energy Legislation (Miscellaneous Amendments)
Act 1994****Certain pipelines taken to satisfy requirements of this
Act**

2. A pipeline whose construction is commenced or completed under, or under an authority granted under, an Act (other than this Act) or an Act of the Commonwealth is taken to satisfy the requirements of this Act that must be satisfied before a licence can be granted.

SCHEDULE 4—AMENDMENT OF PIPELINES ACT 1967—
continued

Validation

3. Any licence granted before the commencement of section 12 (3), as inserted by the Energy Legislation (Miscellaneous Amendments) Act 1994, is taken to have been duly granted if it could have been granted had that provision been in force when it was granted.

**SCHEDULE 5—AMENDMENT OF SYDNEY ELECTRICITY
ACT 1990**

(Sec. 7)

(1) Section 5 (**Principal functions of Sydney Electricity**):

Omit section 5 (1) (a), insert instead:

- (a) the purchase, transmission and distribution of electricity, including the transmission and distribution of electricity on behalf of other persons;

(2) Section 7A:

After section 7, insert:

Third party access to electricity transmission system

7A. (1) As far as reasonably practicable, Sydney Electricity:

- (a) must allow other persons and bodies (including persons and bodies outside New South Wales) to have access to its electricity transmission system and electricity transmission network services; and
(b) must ensure that access to the system and services is provided on a non-discriminatory basis.

(2) The regulations may make provision with respect to the provision of access to Sydney Electricity's electricity transmission system and electricity transmission network services.

(3) In this section, "**electricity transmission system**" means transmission lines, substations and associated structures, equipment and works used for the distribution of electricity.

SCHEDULE 6—CONSEQUENTIAL AMENDMENT OF OTHER ACTS AND INSTRUMENTS

(Sec. 8)

Electricity (Savings, Transitional and Machinery Provisions) Regulation 1993

Clause 13:

Omit the clause.

Energy Administration Act 1987 No. 103

Sections 49–52:

Omit the sections.

First State Superannuation Act 1992 No. 100

Schedule 1 (Employers):

From Part 2, omit “Local Government Electricity Association of New South Wales”, insert instead “Electricity Association of New South Wales”.

Fish River Water Supply Administration Act 1945 No. 16

Section 8A (Fixing price of water):

- (a) In section 8A (2), after “council” where firstly occurring, insert “, or by any electricity distributor (within the meaning of the Electricity Act 1945) exercising the water supply functions of a council,”.
- (b) In section 8A (2), after “council” where secondly occurring, insert “, or by any such electricity distributor,”.

Local Government Act 1919 No. 41

- (1) Section 327 (Conditions to be observed before opening new roads or subdivision):

After section 327 (4), insert:

(5) In this section, a reference to a Water Supply Authority includes a reference to a council or county council exercising water supply functions under the Local Government Act 1993 and an electricity supply authority exercising water supply functions under the Electricity Act 1945.

Energy Legislation (Miscellaneous Amendments) Act 1994 No. 82

SCHEDULE 6—CONSEQUENTIAL AMENDMENT OF OTHER ACTS AND INSTRUMENTS—*continued*

(2) Section 331A (**Subdivision of land within the area of operations of a Water Board or Water Supply Authority**):

After section 331A (3), insert:

(4) In this section, a reference to a Water Supply Authority includes a reference to a council or county council exercising water supply functions under the Local Government Act 1993 and an electricity supply authority exercising water supply functions under the Electricity Act 1945.

Local Government Associations Incorporation Act 1974 No. 20

Section 4 (**Corporate name**):

After section 4 (7), insert:

(8) On and from the commencement of the Energy Legislation (Miscellaneous Amendments) Act 1994, a reference in any Act, in any instrument under an Act or in any other instrument of any kind to the Local Government Electricity Association of New South Wales is to be read as a reference to the Electricity Association of New South Wales.

(9) The Electricity Association of New South Wales is a continuation of, and the same legal entity as, the Local Government Electricity Association of New South Wales.

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

Section 8A (**Fixing price of water**):

After “council”, insert “, or to any electricity distributor (within the meaning of the Electricity Act 1945) exercising the water supply functions of a council,”.

State Authorities Superannuation Act 1983 No. 211

Schedule 1 (**Employers**):

From Part 2, omit “Local Government Electricity Association of New South Wales”, insert instead “Electricity Association of New South Wales”.

Energy Legislation (Miscellaneous Amendments) Act 1994 No. 82

SCHEDULE 6—CONSEQUENTIAL AMENDMENT OF OTHER
ACTS AND INSTRUMENTS—*continued*

State Authorities Non-contributory Superannuation Act 1987 No. 212

Schedule 1 (**Employers**):

From Part 2, omit “Local Government Electricity Association of New South Wales”, insert instead “Electricity Association of New South Wales”.

Superannuation Act 1916 No. 28

Schedule 3 (**List of Employers**):

From Part 2, omit “Local Government Electricity Association of New South Wales”, insert instead “Electricity Association of New South Wales”.

*[Minister's second reading speech made in—
Legislative Council on 23 November 1994
Legislative Assembly on 1 December 1994]*