



New South Wales

Electricity Legislation Amendment Act 1995 No 18

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Electricity Commission Act 1950 No 22	2
4 Amendment of Electricity Transmission Authority Act 1994 No 64	2
5 Amendment of Sydney Electricity Act 1990 No 117	2
6 Amendment of Electricity Act 1945 (1946 No 13)	2
7 Amendment of other Acts	2
8 Repeals	2

Schedules

1 Amendment of Electricity Commission Act 1950	3
2 Amendment of Electricity Transmission Authority Act 1994	19
3 Amendment of Sydney Electricity Act 1990	32
4 Amendment of Electricity Act 1945	44
5 Amendment of other Acts	59



New South Wales

Electricity Legislation Amendment Act 1995 No 18

Act No 18, 1995

An Act to amend various Acts so as to provide for the reconstitution of the governing bodies of statutory authorities concerned with the generation, transmission and distribution of electricity, to reconstitute the Electricity Commission as a new statutory authority under the name of Pacific Power, to enable the Electricity Transmission Authority to develop a wholesale market for electricity and to facilitate the amalgamation of electricity distributors; and for other purposes. [Assented to 19 June 1995]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Electricity Legislation Amendment Act 1995*.

2 Commencement

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

3 Amendment of Electricity Commission Act 1950 No 22

The *Electricity Commission Act 1950* is amended as set out in Schedule 1.

4 Amendment of Electricity Transmission Authority Act 1994 No 64

The *Electricity Transmission Authority Act 1994* is amended as set out in Schedule 2.

5 Amendment of Sydney Electricity Act 1990 No 117

The *Sydney Electricity Act 1990* is amended as set out in Schedule 3.

6 Amendment of Electricity Act 1945 (1946 No 13)

The *Electricity Act 1945* is amended as set out in Schedule 4.

7 Amendment of other Acts

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

8 Repeals

The following regulations are repealed:

- (a) Electricity Commission (Elections) Regulation 1994,
- (b) Sydney Electricity (Electricity Supply Districts—Elected Directors) Regulation 1991,
- (c) Sydney Electricity (Staff Elected Director) Regulation 1991.

Schedule 1 Amendment of Electricity Commission Act 1950

(Section 3)

[1] Section 1 Short title and commencement

Omit “*Electricity Commission Act 1950*” from section 1 (1).
Insert instead “*Electricity (Pacific Power) Act 1950*”.

[2] Section 3 Definitions

Omit the definitions of *Chairman*, *Commission*, *Commissioner* and *General Manager* from section 3 (1).

Insert in alphabetical order:

Board means the board of directors for Pacific Power appointed under section 5B.

Chief Executive means the Chief Executive of Pacific Power appointed under section 5D.

Pacific Power means the corporation established by section 5.

[3] Section 3 (6)

Insert after section 3 (5):

- (6) In this Act (except for Part 2 of Schedule 7):
- (a) a reference to the Commission includes a reference to Pacific Power, and
 - (b) a reference to a commissioner includes a reference to a director of the Board, and
 - (c) a reference to the general manager includes a reference to the Chief Executive.

[4] Sections 5, 5A, 5B, 5C, 5D, 5E, 5F, 5G

Omit sections 5, 5A and 5B. Insert instead:

5 Constitution of Pacific Power

- (1) There is established by this Act a corporation under the name of Pacific Power.
- (2) Pacific Power is, for the purposes of any Act, a statutory body representing the Crown.
- (3) Pacific Power has such functions as are conferred or imposed on it by or under this or any other Act or law.

5A Principal objectives of Pacific Power

- (1) The principal objectives of Pacific Power are:
 - (a) to be a successful business and, to this end:
 - (i) to operate at least as efficiently as any comparable businesses, and
 - (ii) to maximise the net worth of the State's investment in it, and
 - (b) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates, and
 - (c) where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*.
- (2) Each of the principal objectives of Pacific Power is of equal importance.

5B Establishment of board of directors for Pacific Power

- (1) There is to be a board of directors for Pacific Power.
- (2) The Board is to consist of the following:
 - (a) the Chief Executive,

- (b) at least 3, but no more than 5, part-time directors appointed by the Governor on the recommendation of the Minister,
- (c) one part-time director appointed by the Governor on the recommendation of a selection committee comprising:
 - (i) 2 persons nominated by the Minister, and
 - (ii) 2 persons nominated by the Labor Council of New South Wales,
being a person selected by the committee from a panel of 3 persons nominated by the Labor Council.
- (3) The part-time directors referred to in subsection (2) (b) must each have managerial, commercial, financial, legal or other similar qualifications and, in making a recommendation under that paragraph, the Minister must have regard to the environment and the interests of consumers of electricity.
- (4) The procedures for constituting the selection committee, for making nominations and for determining other matters relating to the selection process are to be determined by the regulations or (subject to the regulations) by the Minister.
- (5) The Minister is to appoint one of the directors referred to in subsection (2) (b) as Chairperson of the Board and another of those directors as Deputy Chairperson of the Board.
- (6) Schedule 6 has effect in relation to the constitution and procedure of the Board.

5C Board to determine policies and strategic plans

- (1) The Board has the function of determining the policies and strategic plans of Pacific Power.
- (2) In exercising that function, the Board:
 - (a) must have regard to the need for the structural reform of the electricity industry, and

- (b) must, as far as practicable, ensure that the activities of Pacific Power are carried out properly and efficiently.

5D Appointment of Chief Executive

- (1) The Governor may appoint a Chief Executive of Pacific Power on the recommendation of the Minister.
- (2) Before a person is appointed as Chief Executive, the Minister must give the Board the opportunity to recommend any one or more persons for appointment.
- (3) The employment of the Chief Executive is subject to Part 2A of the *Public Sector Management Act 1988*, but is not subject to Part 2 of that Act.

5E Appointment of acting Chief Executive

- (1) The Minister may, from time to time, appoint a person to act in the office of the Chief Executive during the illness or absence of the Chief Executive (or during a vacancy in the office of Chief Executive) and the person, while so acting, has all the functions of the Chief Executive and is taken to be the Chief Executive.
- (2) The Minister may, at any time, remove a person from office as acting Chief Executive.
- (3) An acting Chief Executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

5F Chief Executive to manage affairs of Pacific Power

- (1) The affairs of Pacific Power are to be managed and controlled by the Chief Executive in accordance with the policies and strategic plans determined by the Board, but subject to any directions of the Minister.
- (2) Any act, matter or thing done in the name of, or on behalf of, Pacific Power by, or with the authority of, the Chief Executive is taken to have been done by Pacific Power.

5G Delegation of functions

- (1) Pacific Power may delegate to an authorised person any of its functions, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by Pacific Power if the delegate is authorised in writing to do so by Pacific Power.
- (3) In this section, *authorised person* means:
 - (a) a member of staff of Pacific Power or any other person of whose services Pacific Power makes use, or
 - (b) a subsidiary company, or
 - (c) a person of a class prescribed by the regulations.

[5] Sections 6, 6A, 6B

Omit the sections.

[6] Section 11 Contracts

Omit “General Manager” from section 11 (3).
Insert instead “Chief Executive”.

[7] Section 36 Committee of Review

Omit “General Manager” from section 36 (1) (b).
Insert instead “Chief Executive”.

[8] Section 93 Documents, how authenticated

Omit “General Manager”. Insert instead “Chief Executive”.

[9] Sections 93A, 93B

Insert after section 93:

93A Custody and use of seal

The seal of Pacific Power must be kept by the Chief Executive, or by a member of staff of Pacific Power authorised in that behalf by the Chief Executive, and must be affixed to a document only:

- (a) in the presence of the Chief Executive or that member of staff, and
- (b) with an attestation by the signature of the Chief Executive or that member of staff of the fact of the affixing of the seal.

93B Personal liability

A matter or thing done or omitted by Pacific Power, the Chief Executive, any director of the Board or any person acting under the direction of Pacific Power or the Board does not subject the Chief Executive, director or person so acting to any action, liability, claim or demand if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act.

[10] Section 97 Proof of certain matters not required

Omit the section.

[11] Section 99

Insert after section 98:

99 Savings, transitional and other provisions

Schedule 7 has effect.

[12] Schedules 6, 7

Omit the Schedules. Insert instead:

Schedule 6 Provisions relating to constitution and procedure of Board

(Section 5B)

Part 1 Constitution of Board

1 Definition

In this Part:

part-time director means a director appointed under section 5B (2) (b) or (c).

2 Terms of office of part-time directors

Subject to this Schedule, a part-time director holds office for such period (not exceeding 1 year) as is specified in the director's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

3 Remuneration

A part-time director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the director.

4 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of a part-time director, and the Minister may revoke any such appointment.
- (2) In the absence of a part-time director, the director's deputy:
 - (a) may, if available, act in the place of the director, and
 - (b) while so acting, has all the functions of the director and is taken to be a part-time director.
- (3) A person while acting in the place of a part-time director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (4) For the purposes of this clause, a vacancy in the office of a part-time director is taken to be an absence of the director.

5 Vacancy in office of part-time director

- (1) The office of a part-time director becomes vacant if the director:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or

- (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Governor under this clause or under Part 8 of the *Public Sector Management Act 1988*, or
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the director personally or by post, except on leave granted by the Minister or unless the director is excused by the Minister for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Governor may remove a part-time director from office at any time.

6 Filling of vacancy in office of director

If the office of any part-time director becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

7 Chairperson and Deputy Chairperson

- (1) In the absence of the Chairperson, the Deputy Chairperson:
- (a) may, if available, act in the place of the Chairperson, and
 - (b) while so acting, has all the functions of the Chairperson and is taken to be the Chairperson.

- (2) The Chairperson or Deputy Chairperson vacates office as Chairperson or Deputy Chairperson if the person:
 - (a) is removed from office by the Minister under this clause or under Part 8 of the *Public Sector Management Act 1988*, or
 - (b) ceases to be a part-time director.
- (3) The Minister may remove the Chairperson or Deputy Chairperson from office as Chairperson or Deputy Chairperson.

8 Disclosure of pecuniary interests

- (1) If:
 - (a) a director has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and
 - (b) the interest appears to raise a conflict with the proper performance of the director's duties in relation to the consideration of the matter,

the director must, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the Board.

- (2) A disclosure by a director at a meeting of the Board that the director:
 - (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

- (3) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board.
- (4) After a director has disclosed the nature of an interest in any matter, the director must not, unless the Minister or the Board otherwise determines:
 - (a) be present during any deliberation of the Board with respect to the matter, or
 - (b) take part in any decision of the Board with respect to the matter.
- (5) For the purposes of the making of a determination by the Board under subclause (4), a director who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the Board for the purpose of making the determination, or
 - (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Board.

9 Effect of certain other Acts

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a part-time director.
- (2) If by or under any Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a part-time director or from accepting and retaining any remuneration payable to the person under this Act as a part-time director.

- (3) The office of a part-time director is not, for the purposes of any Act, an office or place of profit under the Crown.

10 Provisions regarding directors who are employees

- (1) A person may be, at the same time, both a director of the Board and an employee of Pacific Power.
- (2) Nothing in any law, rule, direction or other requirement:
- (a) that is applicable to a director in his or her capacity as an employee of Pacific Power, and
 - (b) that would not be so applicable if he or she were not such an employee,

operates so as to prevent or restrict the exercise by the director of any of his or her functions as a director.

Part 2 Procedure of Board

11 Quorum

The quorum for a meeting of the Board is 4 directors, of whom one must be the Chairperson or Deputy Chairperson.

12 Presiding director

- (1) The Chairperson (or, in the absence of the Chairperson, the Deputy Chairperson) is to preside at a meeting of the Board.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

13 Voting

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

14 Transaction of business outside meetings or by telephone

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the directors of the Board for the time being, and a resolution in writing approved in writing by a majority of those directors is taken to be a decision of the Board.
- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which directors (or some directors) participate by telephone, closed-circuit television or other means, but only if any director who speaks on a matter before the meeting can be heard by the other directors.
- (3) For the purposes of
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the Chairperson and each director have the same voting rights as they have at an ordinary meeting of the Board.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.
- (5) Papers may be circulated among the directors for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

15 First meeting

The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

Schedule 7 Savings, transitional and other provisions

(Section 99)

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 Legislation Amendment 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 Legislation Amendment Act 1995

2 Definition

In this Part:

amending Act means the *Electricity Legislation Amendment Act 1995*.

3 Abolition of Electricity Commission

- (1) The Electricity Commission of New South Wales is abolished.
- (2) Pacific Power is a continuation of, and the same legal entity as, the Electricity Commission of New South Wales.

4 Preservation of certain entitlements

- (1) Part 8 of the *Public Sector Management Act 1988* applies to each commissioner of the Electricity Commission holding office immediately before the commencement of this clause as if the commissioner had been removed from office by the Governor under section 90 of that Act.

- (2) Subclause (1) does not apply to the persons referred to in clauses 5 and 6.

5 Former chairperson to continue as director and Chairperson

The person who, immediately before the commencement of this clause, was the chairperson of the Electricity Commission is taken:

- (a) to have been appointed, for a term of 1 year beginning on that commencement, as a part-time director of the Board, and
- (b) to have been appointed Chairperson of the Board, on the same terms and conditions as to remuneration and allowances as those on which that person held office as chairperson immediately before that commencement.

6 Former elected commissioner to continue as director

The person who, immediately before the commencement of this clause, was the commissioner referred to in clause 2 (1) (c) of Schedule 6 (as in force immediately before that commencement) is taken to be the person recommended for appointment as a part-time director (as referred to in section 5B (2) (c)) for the purposes of the first Board to be established after that commencement.

7 Removal from office of General Manager

- (1) The office of General Manager is abolished.
- (2) Part 2A of the *Public Sector Management Act 1988* applies to the General Manager of the Electricity Commission holding office immediately before the commencement of this clause as if the General Manager had been removed from office by the Governor under section 42Q of that Act.
- (3) If the General Manager referred to in subclause (2):
- (a) is appointed as Chief Executive, within 3 months after the commencement of this clause, for a term that expires before the date on which his or her

term of office as General Manager would have expired had the office of General Manager not been abolished, and

- (b) is not re-appointed as Chief Executive between the date on which his or her term of office as Chief Executive expires and the date on which his or her term of office as General Manager would have expired had the office of General manager not been abolished,

the compensation (if any) to which he or she is entitled under section 42S of the *Public Sector Management Act 1988* as a consequence of not having been re-appointed as Chief Executive is to be determined by the Statutory and Other Offices Remuneration Tribunal as if the office of General Manager had not been abolished and as if he or she had been removed from office as General Manager on the date on which his or her term of office as Chief Executive expires.

8 Delegations

Any delegation in force under section 5B, as in force immediately before the commencement of this clause, continues to have effect as if it had been made under section 5G, as inserted by the amending Act.

9 Ministerial directions

Any direction in force under section 7, as in force immediately before the commencement of this clause, continues to have effect as if it had been given under section 7, as substituted by the amending Act.

10 Construction of certain references

In any Act or instrument:

- (a) a reference to the Electricity Commission of New South Wales, however expressed, includes a reference to Pacific Power, and

Electricity Legislation Amendment Act 1995 No 18

Schedule 1 Amendment of Electricity Commission Act 1950

- (b) a reference to a commissioner of the Electricity Commission of New South Wales includes a reference to a member of the Board of directors for Pacific Power, and
- (c) a reference to the General Manager of the Electricity Commission of New South Wales includes a reference to the Chief Executive of Pacific Power.

Schedule 2 Amendment of Electricity Transmission Authority Act 1994

(Section 4)

[1] Section 3 Definitions

Omit the definition of *ELCOM*.

Insert in alphabetical order:

Pacific Power means the body constituted under that name under the *Electricity (Pacific Power) Act 1950*, and includes any subsidiary within the meaning of that Act.

[2] Section 3, definition of electricity supply authority

Omit “ELCOM”. Insert instead “Pacific Power”.

[3] Section 4A

Insert after section 4:

4A Principal objectives of the Authority

- (1) The principal objectives of the Authority are:
 - (a) to be a successful business and, to this end:
 - (i) to operate at least as efficiently as any comparable businesses, and
 - (ii) to maximise the net worth of the State’s investment in it, and
 - (b) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates, and
 - (c) where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*.
- (2) Each of the principal objectives of the Authority is of equal importance.

[4] Section 5 Ministerial control

Insert after section 5 (8):

- (9) Within 14 sitting days after giving a direction under this section, the Minister must cause written notice of the direction to be laid before each House of Parliament.
- (10) Within one month after giving a direction under this section, the Minister must cause notice of that fact to be published in the Gazette, setting out the reasons why the direction was given and why it is in the public interest that the direction be given.
- (11) Within 14 sitting days after the publication of a notice under subsection (10), the Minister must cause written notice of the publication of the notice to be laid before each House of Parliament.

[5] Section 6 Principal functions of the Authority

Insert after section 6 (e):

- (e1) the development, implementation, operation and administration of a wholesale market for electricity,

[6] Section 16 Establishment of the Board

Omit section 16 (2). Insert instead:

- (2) The Board is to consist of the following:
 - (a) the Chief Executive,
 - (b) at least 3, but no more than 5, part-time directors appointed by the Governor on the recommendation of the Minister,
 - (c) one part-time director appointed by the Governor on the recommendation of a selection committee comprising:

- (i) 2 persons nominated by the Minister, and
- (ii) 2 persons nominated by the Labor Council of New South Wales,

being a person selected by the committee from a panel of 3 persons nominated by the Labor Council.

(2A) The part-time directors referred to in subsection (2) (b) must each have managerial, commercial, financial, legal or other similar qualifications and, in making a recommendation under that paragraph, the Minister must have regard to the environment and the interests of consumers of electricity.

(2B) The procedures for constituting the selection committee, for making nominations and for determining other matters relating to the selection process are to be determined by the regulations or (subject to the regulations) by the Minister.

[7] Section 20 Right of Chief Executive to attend meetings of Board

Omit the section.

[8] Section 32 Establishment of funds

Insert after section 32 (b):

- (c) a fund to be known as the Market Operations Fund,
- (d) a fund to be known as the Market Settlements Fund.

[9] Section 33 Transmission Authority General Fund

Insert “, the Market Operations Fund or the Market Settlements Fund” after “Fund” in section 33 (1) (a).

[1 0] Section 33 (2) (a)

Insert “or in the development, implementation, operation or administration of the wholesale market for electricity” after “control” in section 33 (2) (a).

[1 1] Sections 34A, 34B

Insert after section 34:

34A Market Operations Fund

- (1) There is to be paid into the Market Operations Fund:
 - (a) all money received by or on account of the Authority in connection with its operation and administration of the wholesale market for electricity, other than money that is required to be paid into the Market Settlements Fund, and
 - (b) all money required to be paid into the Market Operations Fund by or under this or any other Act.
- (2) There may be paid from the Market Operations Fund:
 - (a) the remuneration of staff of the Authority engaged in the development, implementation, operation or 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.

34B Market Settlements Fund

- (1) There is to be paid into the Market Settlements Fund:
 - (a) all money received by or on account of the Authority for payment to wholesale producers of electricity and other participants in the wholesale market for electricity, and
 - (b) all money required to be paid into the Market Settlements Fund by or under this or any other Act.

- (2) There may be paid from the Market Settlements Fund:
- (a) all money payable by the Authority to wholesale producers of electricity and other participants in 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 Settlements Fund.

[12] Section 53

Omit the section. Insert instead:

53 Savings, transitional and other provisions

Schedules 2 and 2A have effect.

[13] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Provisions relating to constitution and procedure of Board

(Section 16)

Part 1 Constitution of Board

1 Definition

In this Part:

part-time director means a director appointed under section 16 (2) (b) or (c).

2 Terms of office of part-time directors

Subject to this Schedule, a part-time director holds office for such period (not exceeding 1 year) as is specified in the director's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

3 Remuneration

A part-time director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the director.

4 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of a part-time director, and the Minister may revoke any such appointment.
- (2) In the absence of a part-time director, the director's deputy:
 - (a) may, if available, act in the place of the director, and
 - (b) while so acting, has all the functions of the director and is taken to be a part-time director.
- (3) A person while acting in the place of a part-time director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (4) For the purposes of this clause, a vacancy in the office of a part-time director is taken to be an absence of the director.

5 Vacancy in office of part-time director

- (1) The office of a part-time director becomes vacant if the director:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or

- (d) is removed from office by the Governor under this clause or under Part 8 of the *Public Sector Management Act 1988*, or
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the director personally or by post, except on leave granted by the Minister or unless the director is excused by the Minister for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Governor may remove a part-time director from office at any time.

6 Filling of vacancy in office of director

If the office of any part-time director becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

7 Chairperson and Deputy Chairperson

- (1) In the absence of the Chairperson, the Deputy Chairperson:
- (a) may, if available, act in the place of the Chairperson, and
 - (b) while so acting, has all the functions of the Chairperson and is taken to be the Chairperson.

- (2) The Chairperson or Deputy Chairperson vacates office as Chairperson or Deputy Chairperson if the person:
 - (a) is removed from office by the Minister under this clause or under Part 8 of the *Public Sector Management Act 1988*, or
 - (b) ceases to be a part-time director.
- (3) The Minister may remove the Chairperson or Deputy Chairperson from office as Chairperson or Deputy Chairperson.

8 Disclosure of pecuniary interests

- (1) If:
 - (a) a director has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and
 - (b) the interest appears to raise a conflict with the proper performance of the director's duties in relation to the consideration of the matter,

the director must, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the Board.

- (2) A disclosure by a director at a meeting of the Board that the director:
 - (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

- (3) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board.
- (4) After a director has disclosed the nature of an interest in any matter, the director must not, unless the Minister or the Board otherwise determines:
 - (a) be present during any deliberation of the Board with respect to the matter, or
 - (b) take part in any decision of the Board with respect to the matter.
- (5) For the purposes of the making of a determination by the Board under subclause (4), a director who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the Board for the purpose of making the determination, or
 - (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Board.

9 Effect of certain other Acts

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a part-time director.
- (2) If by or under any Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a part-time director or from accepting and retaining any remuneration payable to the person under this Act as a part-time director.

- (3) The office of a part-time director is not, for the purposes of any Act, an office or place of profit under the Crown.

10 Provisions regarding directors who are employees

- (1) A person may be, at the same time, both a director of the Board and an employee of the Authority.
- (2) Nothing in any law, rule, direction or other requirement:
- (a) that is applicable to a director in his or her capacity as an employee of the Authority, and
 - (b) that would not be so applicable if he or she were not such an employee,

operates so as to prevent or restrict the exercise by the director of any of his or her functions as a director.

Part 2 Procedure of Board

11 Quorum

The quorum for a meeting of the Board is 4 directors, of whom one must be the Chairperson or Deputy Chairperson.

12 Presiding director

- (1) The Chairperson (or, in the absence of the Chairperson, the Deputy Chairperson) is to preside at a meeting of the Board.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

13 Voting

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

14 Transaction of business outside meetings or by telephone

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the directors of the Board for the time being, and a resolution in writing approved in writing by a majority of those directors is taken to be a decision of the Board.
- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which directors (or some directors) participate by telephone, closed-circuit television or other means, but only if any director who speaks on a matter before the meeting can be heard by the other directors.
- (3) For the purposes of
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (a),the Chairperson and each director have the same voting rights as they have at an ordinary meeting of the Board.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.
- (5) Papers may be circulated among the directors for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

15 First meeting

The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

[14] Schedule 2 Savings and transitional provisions

Omit “ELCOM” wherever occurring.
Insert instead “Pacific Power”.

[15] Schedule 2, clause 10

Omit “(being employees employed in connection with the control, management, operation or maintenance of the transmission system vested in ELCOM immediately before the commencement of clause 4)”.

[16] Schedule 2A

Insert after Schedule 2:

Schedule 2A Further savings, transitional and other provisions

(Section 53)

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 Legislation Amendment 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 Legislation Amendment Act 1995

2 Definition

In this Part:

amending Act means the *Electricity Legislation Amendment Act 1995*.

3 Abolition of Board

- (1) The Board is abolished,
- (2) Part 8 of the *Public Sector Management Act 1988* applies to each director of the Board who is removed from office under this clause as if the director had been removed from office by the Governor under section 90 of that Act.
- (3) Subclause (2) does not apply to the person referred to in clause 4.

4 Former chairperson to continue as director and Chairperson

The person who, immediately before the commencement of this clause, was the Chairperson of the Board is taken:

- (a) to have been appointed, for a term of 1 year beginning on that commencement, as a part-time director on the Board, and
- (b) to have been appointed Chairperson of the Board, on the same terms and conditions as to remuneration and allowances as those on which that person held office as Chairperson immediately before that commencement.

Schedule 3 Amendment of Sydney Electricity Act 1990

(Section 5)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

Board means the board of directors for Sydney Electricity established under section 8.

[2] Section 4A

Insert after section 4:

4A Principal objectives of Sydney Electricity

- (1) The principal objectives of Sydney Electricity are:
 - (a) to be a successful business and, to this end:
 - (i) to operate at least as efficiently as any comparable businesses, and
 - (ii) to maximise the net worth of the State's investment in it, and
 - (b) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates, and
 - (c) where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*.
- (2) Each of the principal objectives of Sydney Electricity is of equal importance.

[3] Sections 7, 10, 14, 15

Omit "the directors of Sydney Electricity" wherever occurring. Insert instead "the Board".

[4] Sections 8, 9

Omit the sections. Insert instead:

8 Establishment of Board of directors for Sydney Electricity

- (1) There is to be a Board of directors for Sydney Electricity.
- (2) The Board is to consist of the following:
 - (a) the Chief Executive,
 - (b) at least 3, but no more than 5, part-time directors appointed by the Governor on the recommendation of the Minister,
 - (c) one part-time director appointed by the Governor on the recommendation of a selection committee comprising:
 - (i) 2 persons nominated by the Minister, and
 - (ii) 2 persons nominated by the Labor Council of New South Wales,
being a person selected by the committee from a panel of 3 persons nominated by the Labor Council.
- (3) The part-time directors referred to in subsection (2) (b) must each have managerial, commercial, financial, legal or other similar qualifications and, in making a recommendation under that paragraph, the Minister must have regard to the environment and the interests of consumers of electricity.
- (4) The procedures for constituting the selection committee, for making nominations and for determining other matters relating to the selection process are to be determined by the regulations or (subject to the regulations) by the Minister.
- (5) The Minister is to appoint one of the directors referred to in subsection (2) (b) as Chairperson of the Board and another of those directors as Deputy Chairperson of the Board.

- (6) Schedule 2 has effect in relation to the constitution and procedure of the Board.

9 Board to determine policies and strategic plans

- (1) The Board has the function of determining the policies and strategic plans of Sydney Electricity.
- (2) In exercising that function, the Board:
- (a) must have regard to the need for the structural reform of the electricity industry, and
 - (b) must, as far as practicable, ensure that the activities of Sydney Electricity are carried out properly and efficiently.

[5] Section 10 (3)

Omit “the directors may”. Insert instead “the Board may”.

[6] Section 10 (4)

Omit “the directors consider”. Insert instead “the Board considers”.

[7] Section 10 (5)

Omit “the directors request”. Insert instead “the Board requests”.

[8] Section 10 (9), (10), (11)

Insert after section 10 (8):

- (9) Within 14 sitting days after giving a direction under this section, the Minister must cause written notice of the direction to be laid before each House of Parliament.
- (10) Within one month after giving a direction under this section, the Minister must cause notice of that fact to be published in the Gazette, setting out the reasons why the direction was given and why it is in the public interest that the direction be given.

- (11) Within 14 sitting days after the publication of a notice under subsection (10), the Minister must cause written notice of the publication of the notice to be laid before each House of Parliament.

[9] Section 14 Chief Executive of Sydney Electricity

Omit section 14 (7).

[10] Section 16 Right of Chief Executive to attend meetings of directors

Omit the section.

[11] Section 48 Personal liability

Omit “the directors”. Insert instead “the Board”.

[12] Section 53 Regulations

Omit section 53 (2) (a).

[13] Section 53A

Insert after section 53:

53A Amendment of Sydney Electricity District

- (1) The Governor may, by proclamation, amend Schedule 1 by inserting, omitting or substituting any matter.
- (2) The Minister may direct, by order in writing, that any specified staff, assets, rights or liabilities of Sydney Electricity be transferred to such person or body as is specified in the order consequent on the making of a proclamation under this section.
- (3) Such an order may be made on such terms and conditions as are specified in the order.

- (4) Schedule 3 to the Electricity Act 1945 (clause 2 (2) excepted) applies to the transfer of staff, assets, rights or liabilities under this section.
- (5) The regulations may contain provisions of a savings or transitional nature consequent on the making of a proclamation under this section.

[14] Schedules 2, 3

Omit the Schedules. Insert instead:

Schedule 2 Provisions relating to constitution and procedure of Board

(Section8)

Part 1 Constitution of Board

1 Definition

In this Part:

part-time director means a director appointed under section 8 (2) (b) or (c).

2 Terms of office of part-time directors

Subject to this Schedule, a part-time director holds office for such period (not exceeding 1 year) as is specified in the director's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

3 Remuneration

A part-time director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the director.

4 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of a part-time director, and the Minister may revoke any such appointment.

- (2) In the absence of a part-time director, the director's deputy:
 - (a) may, if available, act in the place of the director, and
 - (b) while so acting, has all the functions of the director and is taken to be a part-time director.
- (3) A person while acting in the place of a part-time director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (4) For the purposes of this clause, a vacancy in the office of a part-time director is taken to be an absence of the director.

5 Vacancy in office of part-time director

- (1) The office of a part-time director becomes vacant if the director:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Governor under this clause or under Part 8 of the *Public Sector Management Act 1988*, or
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the director personally or by post, except on leave granted by the Minister or unless the director is excused by the Minister for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or

- (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Governor may remove a part-time director from office at any time.

6 Filling of vacancy in office of director

If the office of any part-time director becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

7 Chairperson and Deputy Chairperson

- (1) In the absence of the Chairperson, the Deputy Chairperson:
- (a) may, if available, act in the place of the Chairperson, and
 - (b) while so acting, has all the functions of the Chairperson and is taken to be the Chairperson.
- (2) The Chairperson or Deputy Chairperson vacates office as Chairperson or Deputy Chairperson if the person:
- (a) is removed from office by the Minister under this clause or under Part 8 of the *Public Sector Management Act 1988*, or
 - (b) ceases to be a part-time director.
- (3) The Minister may remove the Chairperson or Deputy Chairperson from office as Chairperson or Deputy Chairperson.

8 Disclosure of pecuniary interests

- (1) If
- (a) a director has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and

-
- (b) the interest appears to raise a conflict with the proper performance of the director's duties in relation to the consideration of the matter,

the director must, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the Board.

- (2) A disclosure by a director at a meeting of the Board that the director:

- (a) is a member, or is in the employment, of a specified company or other body, or
- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

- (3) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board.

- (4) After a director has disclosed the nature of an interest in any matter, the director must not, unless the Minister or the Board otherwise determines:

- (a) be present during any deliberation of the Board with respect to the matter, or
- (b) take part in any decision of the Board with respect to the matter.

- (5) For the purposes of the making of a determination by the Board under subclause (4), a director who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the Board for the purpose of making the determination, or
 - (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Board.

9 Effect of certain other Acts

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a part-time director.
- (2) If by or under any Act provision is made:
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,
- the provision does not operate to disqualify the person from holding that office and also the office of a part-time director or from accepting and retaining any remuneration payable to the person under this Act as a part-time director.
- (3) The office of a part-time director is not, for the purposes of any Act, an office or place of profit under the Crown.

10 Provisions regarding directors who are employees

- (1) A person may be, at the same time, both a director of the Board and an employee of Sydney Electricity.
- (2) Nothing in any law, rule, direction or other requirement:
- (a) that is applicable to a director in his or her capacity as an employee of Sydney Electricity, and
 - (b) that would not be so applicable if he or she were not such an employee,
- operates so as to prevent or restrict the exercise by the director of any of his or her functions as a director.

Part 2 Procedure of Board

11 Quorum

The quorum for a meeting of the Board is 4 directors, of whom one must be the Chairperson or Deputy Chairperson.

12 Presiding director

- (1) The Chairperson (or, in the absence of the Chairperson, the Deputy Chairperson) is to preside at a meeting of the Board.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

13 Voting

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

14 Transaction of business outside meetings or by telephone

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the directors of the Board for the time being, and a resolution in writing approved in writing by a majority of those directors is taken to be a decision of the Board.
- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which directors (or some directors) participate by telephone, closed-circuit television or other means, but only if any director who speaks on a matter before the meeting can be heard by the other directors.
- (3) For the purposes of
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2), the Chairperson and each director have the same voting rights as they have at an ordinary meeting of the Board.

- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.
- (5) Papers may be circulated among the directors for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

15 First meeting

The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

[15] Schedule 5 Savings, transitional and other provisions

Re-number clause 1 as clause 2A and relocate it immediately before clause 3.

[16] Schedule 5, clause 2

Omit “this Act” from clause 2 (1).
Insert instead:

the following Acts:

this Act

Electricity Legislation Amendment Act 1995.

[17] Schedule 5, clause 2A (as renumbered by item (15))

Omit “Schedule”. Insert instead “Part”.

[18] Schedule 5, Part 3

Insert after Part 2:

Part 3 Provisions consequent on enactment of Electricity Legislation Amendment Act 1995

12 Definition

In this Part:

amending Act means the *Electricity Legislation Amendment Act 1995*.

13 Removal from office of directors

- (1) The directors of Sydney Electricity are removed from office.
- (2) Part 8 of the *Public Sector Management Act 1988* applies to each director who is removed from office under this clause as if the director had been removed from office by the Governor under section 90 of that Act.

14 Appointment of interim reform facilitator

- (1) Pending the appointment of the Board under section 8, the Minister may appoint a reform facilitator for Sydney Electricity.
- (2) The Minister may, at any time, remove a person from office as reform facilitator.
- (3) A reform facilitator is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.
- (4) A reform facilitator has all of the functions of the Board.
- (5) Section 48 applies to a reform facilitator in the same way as it applies to a director of Sydney Electricity.
- (6) Instead of appointing a reform facilitator under this clause, the Minister may appoint a reform facilitator under clause 21 of Schedule 11 to the *Electricity Act 1945* for Sydney Electricity and one or more electricity distributors under that Act.

Schedule 4 Amendment of Electricity Act 1945

(Section 6)

[1] Section 4 Definitions

Omit the definition of *Electricity Commission* from section 4 (1).
Insert in alphabetical order:

Pacific Power means the body constituted under that name under the *Electricity (Pacific Power) Act 1950*, and includes any subsidiary within the meaning of that Act.

[2] Section 4 (1), definition of Electricity supply authority

Omit “the Electricity Commission” from paragraph (a) of the definition.
Insert instead “Pacific Power”.

[3] Section 5 Constitution of the Electricity Council

Omit section 5 (3) (b).

[4] Section 6 Constitution of electricity distributors and their districts

Insert after section 6 (2):

(3) An electricity distributor constituted under this Act is a statutory body representing the Crown.

[5] Section 6A Amendment of Schedule 7

Omit “The regulations may” from section 6A (1).
Insert instead “The Governor may, by proclamation,”.

[6] Section 6A (2)–(5)

Omit section 6A (2) and (3). Insert instead:

(2) The Minister may direct, by order in writing, that any specified staff, assets, rights or liabilities of an electricity distributor that is dissolved, or whose distribution district

is changed, under this section (being staff, assets, rights or liabilities with respect to that electricity distributor's functions under this Act) be transferred to such person or body as is specified in the order.

- (3) Such an order may be made on such terms and conditions as are specified in the order.
- (4) Schedule 3 applies to the transfer of staff, assets, rights or liabilities under this section.
- (5) The regulations may contain provisions of a savings or transitional nature consequent on the making of a proclamation under this section.

[7] Section 6B Application of this Act to Tenterfield Council

Insert after section 6B (4):

- (5) The Minister may direct, by order in writing, that any specified staff, assets, rights or liabilities of Tenterfield Council (being staff, assets, rights or liabilities with respect to that Council's functions under this Act) be transferred to such person or body as is specified in the order.
- (6) Such an order may be made on such terms and conditions as are specified in the order.
- (7) Schedule 3 applies to the transfer of staff, assets, rights or liabilities under this section.

[8] Section 6BA

Insert after section 6B:

6BA Principal objectives of electricity distributor

- (1) The principal objectives of an electricity distributor are:
 - (a) to be a successful business and, to this end:
 - (i) to operate at least as efficiently as any comparable businesses, and
 - (ii) to maximise the net worth of the State's investment in it, and

- (b) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates, and
 - (c) where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*.
- (2) Each of the principal objectives of an electricity distributor is of equal importance.

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

Insert after section **6FB (4)**:

- (4A) In particular, such an order may designate the area of operations within which water supply functions may be exercised by the person or body to whom staff, assets, rights or liabilities are being transferred.

[10] Section 6I (8)

Omit “either”. Insert instead “any”.

[11] Section 6I (9), (10), (11)

Insert after section 6I (8):

- (9) Within 14 sitting days after giving a direction under this section, the Minister must cause written notice of the direction to be laid before each House of Parliament.
- (10) Within one month after giving a direction under this section, the Minister must cause notice of that fact to be published in the Gazette, setting out the reasons why the direction was given and why it is in the public interest that the direction be given.
- (11) Within 14 sitting days after the publication of a notice under subsection (10), the Minister must cause written notice of the publication of the notice to be laid before each House of Parliament.

[12] Sections 6M, 6N

Omit the sections. Insert instead:

6M Constitution of board of directors

- (1) There is to be a board of directors for each electricity distributor or, if the Minister so directs, for any group of electricity distributors.
- (2) The board is to consist of the following:
 - (a) the general manager or, if a chief executive officer is appointed for the electricity distributor under section 60A, the chief executive officer,
 - (b) at least 3, but no more than 5, part-time directors appointed by the Governor on the recommendation of the Minister,
 - (c) one part-time director appointed by the Governor on the recommendation of a selection committee comprising:
 - (i) 2 persons nominated by the Minister, and
 - (ii) 2 persons nominated by the Labor Council of New South Wales,

being a person selected by the committee from a panel of 3 persons nominated by the Labor Council.
- (3) The part-time directors referred to in subsection (2) (b) must each have managerial, commercial, financial, legal or other similar qualifications and, in making a recommendation under that paragraph, the Minister must have regard to the environment and the interest of consumers of electricity.
- (4) The procedures for constituting the selection committee, for making nominations and for determining other matters relating to the selection process are to be determined by the regulations or (subject to the regulations) by the Minister.

- (5) The Minister is to appoint one of the directors referred to in subsection (2) (b) as chairperson of the board and another of those directors as deputy chairperson of the board.
- (6) Schedule 8 has effect in relation to the constitution and procedure of the board of directors for an electricity distributor.
- (7) Matters concerning a group of electricity distributors for which there is a common board may be dealt with by the board as if the group were a single electricity distributor.

6N Board to determine policies and strategic plans

- (1) The board of directors for an electricity distributor has the function of determining the policies and strategic plans of the electricity distributor.
- (2) In exercising that function, the board:
 - (a) must have regard to the need for the structural reform of the electricity industry, and
 - (b) must, as far as practicable, ensure that the activities of the electricity distributor are carried out properly and efficiently.

[13] Sections 60A, 60B, 60C

Insert after section 60:

60A Appointment of chief executive officer

- (1) The Governor, on the recommendation of the Minister, may appoint a chief executive officer for any electricity distributor or for any group of electricity distributors for which there is a common board of directors or common reform facilitator.
- (2) The employment of a chief executive officer is subject to Part 2A of the *Public Sector Management Act 1988*, but is not subject to Part 2 of that Act.

60B Appointment of acting chief executive officer

- (1) The Minister may, from time to time, appoint a person to act in the office of a chief executive officer during the illness or absence of the chief executive officer (or during a vacancy in the office of chief executive officer) and the person, while so acting, has all the functions of the chief executive officer and is taken to be the chief executive officer.
- (2) The Minister may, at any time, remove a person from office as acting chief executive officer.
- (3) An acting chief executive officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

60C Chief executive officer to manage affairs of electricity distributor

- (1) The affairs of an electricity distributor for which a chief executive officer is appointed are to be managed and controlled by the chief executive officer in accordance with the policies and strategic plans determined by the board of directors for the electricity distributor, but subject to any directions of the Minister.
- (2) Any act, matter or thing done in the name of, or on behalf of, an electricity distributor by, or with the authority of, the chief executive officer is taken to have been done by the electricity distributor.
- (3) While a chief executive officer is appointed under this section:
 - (a) the chief executive officer has all of the functions of a general manager in relation to each electricity distributor for which he or she is appointed, and
 - (b) the general manager for any electricity distributor for which the chief executive officer is appointed ceases to have those functions, except to the extent to which the chief executive officer authorises the general manager to exercise those functions.

- (4) A reference in this Act to the general manager of an electricity distributor includes a reference to the chief executive officer (if any) of the electricity distributor.

[14] Section 7X Minister may direct transfer of assets of electricity distributor

Omit the section.

[15] Sections 14A, 14K (1) (c) and (5) (b), 14N (6), 15 (2) (a), 16 (1) (c), 19AB (1), 27 (2), 27AA (2) (a), 27AC (2) and 37 (2) (dd) and (gg)

Omit “the Electricity Commission” wherever occurring.
Insert instead “Pacific Power”.

[16] Section 14N Application of Part C

Omit “that Commission” from section 14N (6).
Insert instead “Pacific Power”.

[17] Schedule 3 Transfer of staff, assets, rights and liabilities

Omit clause 1 (1). Insert instead:

- (1) This Schedule applies to any transfer of staff, assets, rights or liabilities under section 6A, 6B or 6FB of this Act or under section 53A of the *Sydney Electricity Act 1990*.

[18] Schedule 3, clause 1 (2)

Omit “the electricity distributor”.
Insert instead “the person or body”.

[19] Schedule 3, clause 2 (1)

Omit “an electricity distributor”.
Insert instead “the transferor”.

[20] Schedule 3, clause 3 (6), (7)

Insert after clause 3 (5):

- (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.

[21] Schedules 8, 9

Omit the Schedules. Insert instead:

Schedule 8 Provisions relating to constitution and procedure of boards of directors

(Section 6M)

Part 1 Constitution of boards of directors

1 Definitions

In this Part:

board means the board of directors of an electricity distributor.

part-time director means a director appointed under section 6M (2) (b) or (c).

2 Terms of office of part-time directors

Subject to this Schedule, a part-time director holds office for such period (not exceeding 1 year) as is specified in the director's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

3 Remuneration

A part-time director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the director.

4 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of a part-time director, and the Minister may revoke any such appointment.
- (2) In the absence of a part-time director, the director's deputy:
 - (a) may, if available, act in the place of the director, and
 - (b) while so acting, has all the functions of the director and is taken to be a part-time director.
- (3) A person while acting in the place of a part-time director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (4) For the purposes of this clause, a vacancy in the office of a part-time director is taken to be an absence of the director.

5 Vacancy in office of part-time director

- (1) The office of a part-time director becomes vacant if the director:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Governor under this clause or under Part 8 of the *Public Sector Management Act 1988*, or
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the director personally or by post, except on leave granted by the Minister or unless the director is excused by the Minister for having been absent from those meetings, or

- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Governor may remove a part-time director from office at any time.

6 Filling of vacancy in office of director

If the office of any part-time director becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

7 Chairperson and deputy chairperson

- (1) In the absence of the chairperson, the deputy chairperson:
- (a) may, if available, act in the place of the chairperson, and
 - (b) while so acting, has all the functions of the chairperson and is taken to be the chairperson.
- (2) The chairperson or deputy chairperson vacates office as chairperson or deputy chairperson if the person:
- (a) is removed from office by the Minister under this clause or under Part 8 of the *Public Sector Management Act 1988*, or
 - (b) ceases to be a part-time director.
- (3) The Minister may remove the chairperson or deputy chairperson from office as chairperson or deputy chairperson.

8 Disclosure of pecuniary interests

- (1) If
- (a) a director has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the board, and
 - (b) the interest appears to raise a conflict with the proper performance of the director's duties in relation to the consideration of the matter,
- the director must, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the board.
- (2) A disclosure by a director at a meeting of the board that the director:
- (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be recorded by the board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the board.
- (4) After a director has disclosed the nature of an interest in any matter, the director must not, unless the Minister or the board otherwise determines:
- (a) be present during any deliberation of the board with respect to the matter, or
 - (b) take part in any decision of the board with respect to the matter.

- (5) For the purposes of the making of a determination by the board under subclause (4), a director who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the board for the purpose of making the determination, or
 - (b) take part in the making by the board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the board.

9 Effect of certain other Acts

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a part-time director.
- (2) If by or under any Act provision is made:
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,
- the provision does not operate to disqualify the person from holding that office and also the office of a part-time director or from accepting and retaining any remuneration payable to the person under this Act as a part-time director.
- (3) The office of a part-time director is not, for the purposes of any Act, an office or place of profit under the Crown.

10 Provisions regarding directors who are employees

- (1) A person may be, at the same time, both a director of the Board and an employee of an electricity distributor.
- (2) Nothing in any law, rule, direction or other requirement:
- (a) that is applicable to a director in his or her capacity as an employee of an electricity distributor, and

- (b) that would not be so applicable if he or she were not such an employee,

operates so as to prevent or restrict the exercise by the director of any of his or her functions as a director.

Part 2 Procedure of boards of directors

11 Quorum

The quorum for a meeting of the board is 4 directors, of whom one must be the chairperson or deputy chairperson.

12 Presiding director

- (1) The chairperson (or, in the absence of the chairperson, the deputy chairperson) is to preside at a meeting of the board.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

13 Voting

A decision supported by a majority of the votes cast at a meeting of the board at which a quorum is present is the decision of the board.

14 Transaction of business outside meetings or by telephone

- (1) The board may, if it thinks fit, transact any of its business by the circulation of papers among all the directors of the board for the time being, and a resolution in writing approved in writing by a majority of those directors is taken to be a decision of the board.
- (2) The board may, if it thinks fit, transact any of its business at a meeting at which directors (or some directors) participate by telephone, closed-circuit television or other means, but only if any director who speaks on a matter before the meeting can be heard by the other directors.

- (3) For the purposes of
 - (a) the approval of a resolution under subclause (1),
or
 - (b) a meeting held in accordance with subclause (2),
the chairperson and each director have the same voting rights as they have at an ordinary meeting of the board.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the board.
- (5) Papers may be circulated among the directors for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

15 First meeting

The Minister may call the first meeting of the board in such manner as the Minister thinks fit.

[22] Schedule 10 Staff of electricity distributors

Omit clause 7 (8).

[23] Schedule 11 Savings, transitional and other provisions

Insert “Electricity Legislation Amendment Act 1995” at the end of clause 1 (1).

[24] Schedule 11, Part 5

Insert after Part 4:

Part 5 Provisions consequent on enactment of Electricity Legislation Amendment Act 1995

19 Definition

In this Part:

amending Act means the *Electricity Legislation Amendment Act 1995*.

20 Abolition of boards for electricity distributors

- (1) The boards of directors for each electricity distributor are abolished.

- (2) Part 8 of the *Public Sector Management Act 1988* applies to each director of a board that is abolished by this clause as if the director had been removed from office by the Governor under section 90 of that Act.

21 Appointment of interim reform facilitators

- (1) Pending the appointment of the relevant board or boards of directors, the Minister may appoint a reform facilitator for one or more electricity distributors.
- (2) The Minister may, at any time, remove a person from office as reform facilitator.
- (3) A reform facilitator is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.
- (4) A reform facilitator for an electricity distributor has all of the functions of the board of directors for the electricity distributor.
- (5) Matters concerning a group of electricity distributors for which there is a common reform facilitator may be dealt with by the reform facilitator as if the group were a single electricity distributor.
- (6) Section 7R applies to an a reform facilitator in the same way as it applies to a director of an electricity distributor.
- (7) Sydney Electricity is taken to be an electricity distributor for the purposes of this clause.

22 Transfers under section 7X

Any transfer of staff, assets, rights or liabilities that was effected under section 7X before the commencement of this clause is taken to have been effected under Schedule 3, and Schedule 3 has effect accordingly.

Schedule 5 Amendment of other Acts

(Section 7)

5.1 Anti-Discrimination Act 1977 No 48

Section 49ZU Application of Part

Omit “*Electricity Commission Act 1950*” from section 49ZU (1) (c) (ii).

Insert instead “*Electricity (Pacific Power) Act 1950*”.

5.2 Attachment of Wages Limitation Act 1957 No 28

Schedule

Omit “The Electricity Commission of New South Wales.”.
Insert in alphabetical order of authorities “Pacific Power.”.

5.3 Capital Debt Charges Act 1957 No 1

[1] Schedule

Omit “The Electricity Commission of New South Wales” from the Second Column.
Insert instead “Pacific Power”.

[2] Schedule

Omit “*Electricity Commission Act 1950*, as amended” from the Third Column.
Insert instead “*Electricity (Pacific Power) Act 1950*”.

5.4 Clean Air Act 1961 No 69

Section 5 Definitions

Omit “the Electricity Commission of New South Wales” from the definition of *statutory body* in section 5 (1).
Insert instead “Pacific Power”.

5.5 Clean Waters Act 1970 No 78

Section 5 Definitions

Omit “the Electricity Commission of New South Wales” from the definition of *statutory authority*.
Insert instead “Pacific Power”.

5.6 Dams Safety Act 1978 No 96

Section 8 Members

Omit section 8 (2) (a). Insert instead:

- (a) a person nominated by Pacific Power, as constituted under the *Electricity (Pacific Power) Act 1950*,

5.7 First State Superannuation Act 1992 No 100

Schedule 1 Employers

Omit “Electricity Commission” from Part 1.
Insert instead “Pacific Power”.

5.8 Government and Related Employees Appeal Tribunal Act 1980 No 39

Schedule 4 Employing Authorities

Omit “The Electricity Commission of New South Wales.”.
Insert in alphabetical order of authorities “Pacific Power.”.

5.9 Government Pricing Tribunal Act 1992 No 39

Schedule 1 Government agencies for which Tribunal has standing reference

Omit “Electricity Commission”. Insert instead “Pacific Power”.

5.10 Government Telecommunications Act 1991 No 77

Section 32 Establishment of the Board

Omit “the Electricity Commission of New South Wales” from section 32 (3) (g).

Insert instead “Pacific Power”.

5.11 Land Development Contribution Management Act 1970 No 22

Section 7 Time when declared land becomes liable for contribution

Omit “the Electricity Commission of New South Wales” from section 7 (6).

Insert instead “Pacific Power”.

5.12 Lake Illawarra Authority Act 1987 No 285

Schedule 1 Development area

Omit “the Electricity Commission of New South Wales”.

Insert instead “Pacific Power”.

5.13 Local Government Act 1993 No 30

Schedule 9 Provisions concerning electricity distributors exercising water supply functions

Insert after clause 1 (3):

- (4) A reference in this Part to an electricity distributor exercising water supply functions includes a reference to a person or body to which staff, assets, rights or liabilities of such an electricity distributor are transferred under section 6FB of the *Electricity Act 1945*.

5.14 New South Wales Retirement Benefits Act 1972 No 70

Schedule 2

Omit the matter relating to The Electricity Commission of New South Wales.

Insert in alphabetical order of authorities in the First and Second Columns:

Pacific Power All persons employed by Pacific Power.

5.15 Public Authorities (Financial Arrangements) Act 1987 No 33

Schedule 1 Authorities

Omit “The Electricity Commission of New South Wales.”.

Insert in alphabetical order of authorities “Pacific Power.”.

5.16 Public Authorities Superannuation Act 1985 No 41

Schedule 3 Employers

Omit “The Electricity Commission of New South Wales (with respect to all its employees).” from Part 2.

Insert in alphabetical order of authorities in Part 2 “Pacific Power (with respect to all its employees).”.

5.17 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory Bodies

Omit “Electricity Commission of New South Wales.”.

Insert in alphabetical order of authorities “Pacific Power.”.

5.18 Public Sector Management Act 1988 No 33

[1] Schedule 3 Declared Authorities

Omit “The Electricity Commission of New South Wales.”.
Insert in alphabetical order of authorities “Pacific Power.”.

[2] Schedule 3A Chief Executive positions

Omit “General Manager of the Electricity Commission of New South Wales” from Part 3.
Insert in alphabetical order of authorities “Chief Executive of Pacific Power”.

[3] Schedule 38 Senior Executive positions

Omit the heading “*Electricity Commission of New South Wales*”.
Insert instead “*Pacific Power*”.

5.19 Snowy Mountains Hydro-Electric Agreements Act 1958 No 20

Section 4 Pacific Power to give effect to the Agreement

Omit “the Electricity Commission of New South Wales”.
Insert instead “Pacific Power”.

5.20 State Authorities Non-contributory Superannuation Act 1987 No 212

Schedule 1 Employers

Omit “The Electricity Commission of New South Wales” from Part 1
Insert instead “Pacific Power”.

5.21 State Authorities Superannuation Act 1987 No 211

Schedule 1 Employers

Omit “The Electricity Commission of New South Wales” from Part 1.

Insert instead “Pacific Power”.

5.22 State Public Service Superannuation Act 1985 No 45

Schedule 3 Employers

Omit “The Electricity Commission of New South Wales”.

Insert instead “Pacific Power”.

5.23 Superannuation Act 1916 No 28

Schedule 3 List of employers

Omit “The Electricity Commission of New South Wales” from Part 1.

Insert instead “Pacific Power”.

5.24 Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986 No 194

[1] Section 9 Pacific Power and other authorities not to construct or operate nuclear reactors to generate electricity

Omit “*Electricity Commission Act 1950*”.

Insert instead “*Electricity (Pacific Power) Act 1950*”.

[2] Section 9

Omit “the Electricity Commission of New South Wales;”.

Insert instead “Pacific Power;”.

5.25 Water Administration Act 1986 No 195

Schedule 2 Absolute Rights

Omit “the Electricity Commission of New South Wales” from clause 8.

Insert instead “Pacific Power”.

[Minister’s second reading speech made in—
Legislative Assembly on 31 May 1995
Legislative Council on 7 June 1995]