



New South Wales

# Electricity Supply Act 1995 No 94

## Contents

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	Page
<b>Part 1 Preliminary</b>	
1 Name of Act	2
2 Commencement	2
3 Objects	2
4 Definitions	2
5 Act binds Crown	2
<hr/>	
<b>Part 2 Network operations and wholesale trading in the wholesale market</b>	
<b>Division 1 Network operations</b>	
6 Operation of transmission and distribution systems for wholesale trading	3
7 Authorisations	3
8 Network operators to convey electricity for authorised wholesale traders only	3
9 Network operators to comply with Market and System Operator's rules, procedures and conditions of wholesale market operation	3

---

---

	Page
<b>Division 2 Wholesale trading</b>	
10 Authorisations	4
11 Discrimination prohibited	4
12 Wholesale traders to comply with Market and System Operator's rules, procedures and conditions of wholesale market operation	5

---

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

<b>Division 1 Network operations</b>	
13 Operation of distribution systems for retail supply	6
14 Licences	6
15 Right to connection to local distribution system for all customers	6
16 Electricity distributors to convey electricity for licensed retail suppliers only	7
17 Electricity distributors to hold retail suppliers' licences	7
18 Electricity distributors to connect premises under customer connection contracts	7
<b>Division 2 Standard form customer connection contracts</b>	
19 Procedure for making standard form customer connection contracts	7
20 Matters for which standard form customer connection contracts must provide	8
21 Effect of standard form customer connection contracts	9
22 Amendment of standard form customer connection contracts	10
<b>Division 3 Negotiated customer connection contracts</b>	
23 Negotiated customer connection contracts	10

---

	Page
<b>Division 4 Requirements relating to customer connection services</b>	
24 Application	11
25 Contributions to augmentation of distribution system	11
26 Service lines	12
27 Service equipment	12
28 Transformers	12
29 Electricity meters	13
30 Requirements as to installation and use of apparatus	13
31 Customer may choose supplier and contractor	14
32 Sealing of electrical installations	14

---

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

<b>Division 1 Electricity supply</b>	
33 Licences	15
34 Right to supply from local electricity distributor for all franchise and non-franchise customers	15
35 Discrimination prohibited	16
36 Supply of electricity to franchise customers	16
37 Supply of electricity to non-franchise customers	16
38 Retail suppliers to supply electricity under customer supply contracts	17
<b>Division 2 Standard form customer supply contracts</b>	
39 Procedure for making standard form customer supply contracts	17
40 Matters for which standard form customer supply contracts must provide	17
41 Effect of standard form customer supply Contracts	18
42 Amendment of standard form customer supply contracts	19
<b>Division 3 Negotiated customer supply contracts</b>	
43 Negotiated customer supply contracts	19

---

	Page
<b>Part 5 Powers and duties of network operators generally</b>	
<b>Division 1 Acquisition of land</b>	
44 Acquisition of land	21
<b>Division 2 Powers and duties relating to electricity works</b>	
45 Erection and placement of electricity works	21
46 Damage to be made good	22
47 Altering position of conduit	22
48 Interference with electricity works by trees	23
49 Obstruction of electricity works	25
50 Charges for placement of electricity works	25
51 Ownership of electricity works	26
52 Interruption to electricity supply for maintenance	26
53 Liability for failure of electricity supply	26
<b>Division 3 Powers of entry</b>	
54 Powers of entry	26
55 Notice of entry	27
56 Use of force	27
57 Notification of use of force or urgent entry	28
58 Care to be taken	28
59 Recovery of cost of entry and inspection	28
60 Compensation	29
61 Certificates of authority to enter land	29
62 Entry to residential premises	29
63 Warrants of entry	30
<b>Part 6 Offences</b>	
<b>Division 1 General offences</b>	
64 Theft of electricity	31
65 Interference with electricity works	31
66 Interference with electricity meters	31
67 Interference with electricity distributor's seals	31

Contents

---

	Page	
68	Unauthorised connections	31
69	Unauthorised increase in capacity of connections	32
90	unauthorised alterations and additions to electrical installations	32
91	Obstruction of authorised officers	32
 <b>Division 2 Restrictions on resupply of electricity</b>		
72	Charges for the use of electricity prohibited	32
 <b>Division 3 Supplementary orders</b>		
73	Local Court may order disconnection and discontinuance of electricity supply	34
74	Local Court may order payment for electricity unlawfully charged for	34
75	Local Court may order payment for stolen electricity	34
76	Orders for payment operate as judgments	35

---

**Part 7 Administration**

**Division 1 The Market and System Operator**

77	Appointment of Market and System Operator	36
78	Principal functions of Market and System Operator	36
79	Market and System Operator may impose fees on network operators	37
80	System Control Fund	38
81	Market Operations Fund	38
82	Market Settlements Fund	39

**Division 2 Distribution districts**

83	Distribution districts of electricity distributors	39
84	Variation of distribution districts	39
85	Transfer of staff, assets, rights and liabilities	40

**Division 3 Licence Compliance Advisory Board**

86	Establishment of Board	40
87	Functions of Board	41
88	Annual reports	41

---

	Page
<b>Division 4 Customer consultative groups</b>	
89 Appointment of customer consultative groups	41
90 Constitution of customer consultative groups	42
91 Functions of customer consultative groups	42
<b>Division 5 General</b>	
92 Non-franchise customers	43
93 Transmission systems	44
94 Authorised officers	44
<hr/>	
<b>Part 8 Appeals and resolution of disputes</b>	
95 Appeals against decisions concerning authorisations and licences	45
96 Customers may appeal against certain decisions	45
97 Resolution of disputes between public authorities	46
<hr/>	
<b>Part 9 Miscellaneous</b>	
98 Unauthorised electricity supply arrangements unenforceable	47
99 Customer connection contracts and customer supply contracts may be one document	47
100 Delegation of Minister's functions	47
101 Directors and managers liable for offences committed by corporations	47
102 Proceedings for offences	48
103 Recovery of monetary penalties	48
104 Recovery of charges by network operators and wholesale or retail suppliers	48
105 Application of Act outside local government areas	48
106 Regulations	49
107 Repeals	50
108 Amendment of other Acts and instruments	50
109 Savings, transitional and other provisions	50
110 Review of Act	50

Electricity Supply Act 1995 No 94

Contents

---

	Page
<b>Schedules</b>	
1 Authorisations	51
2 Licences	55
3 Distribution districts	62
4 Transfer of staff, assets, rights and liabilities	65
5 Amendment of other Acts and instruments	68
6 Savings, transitional and other provisions	83

---

---

	Page
<b>Dictionary</b>	89

The dictionary defines the following words and expressions

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





New South Wales

## **Electricity Supply Act 1995 No 94**

Act No 94, 1995

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

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

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**The Legislature of New South Wales enacts:**

## **Part 1 Preliminary**

### **1 Name of Act**

This Act is the *Electricity Supply Act 1995*.

### **2 Commencement**

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

### **3 Objects**

The objects of this Act are:

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

### **4 Definitions**

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

### **5 Act binds Crown**

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

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

### **Division 1 Network operations**

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

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

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

#### **7 Authorisations**

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

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

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

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

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

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

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

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

## **Division 2 Wholesale trading**

### **10 Authorisations**

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

### **11 Discrimination prohibited**

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

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

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

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

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

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

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

### **Division 1 Network operations**

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

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

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

#### **14 Licences**

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

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

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

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

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

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

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

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

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

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

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

**Division 2 Standard form customer connection contracts**

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

### **24 Application**

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

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

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

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

## **26 Service lines**

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

## **27 Service equipment**

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

## **28 Transformers**

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

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

### **29 Electricity meters**

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

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

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

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

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

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

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

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

### **Division 1 Electricity supply**

#### **33 Licences**

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **44 Acquisition of land**

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

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

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

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

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

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

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

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

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

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

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

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

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



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

*tree* includes shrub and plant.

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

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

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

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

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

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

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

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

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

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

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

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

## **Division 3 Powers of entry**

### **54 Powers of entry**

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

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

**55 Notice of entry**

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

**56 Use of force**

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

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

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

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

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

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

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

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**60 Compensation**

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

**61 Certificates of authority to enter land**

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

**62 Entry to residential premises**

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

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

### 63 Warrants of entry

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

## **Part 6      Offences**

### **Division 1    General offences**

#### **64    Theft of electricity**

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

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

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

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

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

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

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

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

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

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

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

#### **68    Unauthorised connections**

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

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

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

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

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

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

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

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

### **71 Obstruction of authorised officers**

A person must not:

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

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

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

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

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

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



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

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

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

### **Division 3 Supplementary orders**

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

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

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

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

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

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

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

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

## **Part 7 Administration**

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

#### **77 Appointment of Market and System Operator**

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

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

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

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

#### **79 Market and System Operator may impose fees on network Operators**

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

### **80 System Control Fund**

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

### **81 Market Operations Fund**

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

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**82 Market Settlements Fund**

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

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

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

**84 Variation of distribution districts**

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

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

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

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

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

### **86 Establishment of Board**

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



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

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

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

#### **88 Annual reports**

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

### **Division 4 Customer consultative groups**

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

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

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

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

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

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

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

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

## **Division 5 General**

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

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

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

### **93 Transmission systems**

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

### **94 Authorised officers**

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

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

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

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

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

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

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

**97 Resolution of disputes between public authorities**

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

## Part 9 Miscellaneous

### 98 Unauthorised electricity supply arrangements unenforceable

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

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

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

### 100 Delegation of Minister's functions

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

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

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

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

#### **402 Proceedings for offences**

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

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

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

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

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

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

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



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

## 106 Regulations

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

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

### **107 Repeals**

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

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

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

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

Schedule 6 has effect.

### **110 Review of Act**

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

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## **Schedule 1 Authorisations**

(Sections 7 and 10)

### **1 Authorisations**

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

### **2 Applications**

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

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

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

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

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

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

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

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

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

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

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

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

## **8 Enforcement of authorisations**

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

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

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

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

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## **Schedule 2 Licences**

(Sections 14 and 33)

### **1 Licences**

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

### **2 Applications**

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

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

### **3 Public consultation**

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

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

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

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



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

#### **5 Duration of licences**

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

#### **6 Conditions of licences**

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

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

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

InterGovernmental Agreement on the Environment, or as determined by the Council of Australian Governments, and

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

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

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

## **8 Enforcement of licences**

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

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

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

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

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

### **10 Register of licences**

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

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**Schedule 3 Distribution districts**

(Sections 83 and 84)

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

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

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Electricity Supply Act 1995 No 94

Schedule 3 Distribution districts

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

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

(Section 85)

### **1 Application and interpretation**

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

### **2 Transfer of staff**

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

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

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

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

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

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

## 5 Consideration for vesting

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

## 6 Stamp duty

Stamp duty is not chargeable for or in respect of

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

## 7 Confirmation of vesting

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

## 8 Definitions

In this Schedule:

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

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

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

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

(Section 108)

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

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

Omit the section. Insert instead:

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

This Act is the *Electricity Safety Act 1945*

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

Omit the section.

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

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

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

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

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

Omit the Parts.

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

Insert after section 6FB (5):

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

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

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

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

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

Omit the sections.

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

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

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

Omit “or an electricity distributor or Sydney Electricity”.

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

Omit the section.

**[12] Section 37 Regulations**

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

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

Omit “or Sydney Electricity”.

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

Omit the Schedules.

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

Insert at the end of clause 1 (1):

*Electricity Supply Act 1995.*

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

Insert after Part 5:

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

**23 Abolition of the Electricity Council**

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

**24 Abolition of Electricity Development Fund**

- (1) The Electricity Development Fund is abolished.

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

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

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

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

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

#### **27 References in other legislation**

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

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

#### **[1] Section 3 Definitions**

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

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

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

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

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

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

**[4] Part 2, heading**

Omit “THE COMMISSION”. Insert instead “PACIFIC POWER”.

**[5] Part 3, heading**

Omit “THE COMMISSION”. Insert instead “PACIFIC POWER”.

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

Omit section 9 (2).

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

Omit the section.

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

Omit the Division.

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

Omit the Part.

**[10] Section 55**

Omit the section.



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

Omit “or by-law” from section 66 (1).

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

Omit “by-law,”.

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

Omit “or by-laws”.

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

Omit the Division (section 83 excepted).

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

Insert at the end of the section:

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

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

Omit “and By-laws”.

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

Omit the section.

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

Omit “or by-law”.

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

Omit “or by-law” from section 90 (2).

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

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

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

Omit “or any by-law”.

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

Insert at the end of clause 1 (1):

*Electricity Supply Act 1995.*

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

**[1] Section 3 Definitions.**

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

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

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

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

**[2] Section 5 Ministerial control**

Omit section 5 (8) (a).

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

Omit section 6 (d) and (e1).

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

Omit the sections.

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

Omit section 25 (1) (b).

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

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

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

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

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

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

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

Omit the sections.

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

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

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

Omit the sections.

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

Insert at the end of clause 1 (1):

*Electricity Supply Act 1995.*

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

Insert after Part 2:

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

**5 Abolition of System Control Fund**

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

**6 Abolition of Market Operations Fund**

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

**7 Abolition of Market Settlements Fund**

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

## **5.4 Energy Administration Act 1987 No 103**

### **[1] Section 3 Definitions**

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

### **[2] Section 9 Staff**

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

### **[3] Section 12 Functions**

Omit section 12 (e).

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

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

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

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

Omit section 35 (2) (c).

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

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

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

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

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

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

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

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

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

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

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

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

Omit the subsection.

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

Omit the subsection.

## **5.8 Local Government Act 1993 No 30**

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

Omit the note appearing after the heading to the Division.

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

Omit the note appearing after the heading to the Division.

### **[3] Chapter 7, Introduction**

Omit from the Introduction to the Chapter:

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

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

Omit from the Note to the section:

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

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

Omit the note appearing at the end of the section.

**[6] Section 128 Catchment districts**

Omit the note appearing at the end of the section.

**[7] Chapter 15, Introduction**

Omit from the Introduction to the Chapter:

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

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

Omit the note appearing at the end of the section.

**[9] Chapter 16, Introduction**

Omit from the Introduction to the Chapter:

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

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

Omit the note appearing at the end of the section.

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

Omit the note appearing at the end of the section.



**[12] Chapter 17, Introduction**

Omit from the Introduction to the Chapter:

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

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

Omit the note appearing after the heading to the Division.

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

Omit the Part.

**[15] Schedule 9**

Omit the Schedule.

**5.9 Roads (General) Regulation 1994**

**[1] Clause 79 Public authorities**

Insert after clause 79 (2):

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

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

### **Section 10 Definitions**

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

section 63 of the *Electricity Supply Act 1995*,

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

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

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

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

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

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

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

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

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

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

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

(Section 109)

### **Part 1 Preliminary**

#### **1 Regulations**

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

*Electricity Supply Act 1995*

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

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

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

##### **2 Definitions**

In this Division:

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

**3 Action taken under Division 7 of Part 28 of the amended Act**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**10 Conditions of electricity connection and supply**

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

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

**11 Definitions**

In this Division:

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

## **12 Dissolution of Sydney Electricity**

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

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

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

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

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

## **Division 3 General**

### **15 Regulations**

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

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

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

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

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

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

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

#### **18 Existing electricity supply arrangements**

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



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## Dictionary

(Section 4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

***Wholesale trader*** means a person:

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

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

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