



New South Wales

Electricity Legislation Amendment (Wholesale Electricity Market) Act 1997 No 21

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Electricity Legislation Amendment (Wholesale Electricity Market) Act 1997 No 21

Act No 21, 1997

An Act to amend the *Electricity Supply Act 1995* and the *Electricity Transmission Authority Act 1994* in relation to interstate arrangements for the wholesale supply of electricity; and for other purposes. [Assented to 23 June 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Electricity Legislation Amendment (Wholesale Electricity Market) Act 1997*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) Schedule 1 [29], and section 3 in its application to Schedule 1 [29], commence on the date of assent.

3 Amendment of Electricity Supply Act 1995 No 94

The *Electricity Supply Act 1995* is amended as set out in Schedule 1.

4 Amendment of Electricity Transmission Authority Act 1994 No 64

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

Schedule 1 Amendment of Electricity Supply Act 1995

(Section 3)

[1] Section 8

Omit the section. Insert instead:

8 Network operators to convey electricity for certain persons 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 any person unless the person is:

- (a) a wholesale supplier, or
- (b) a retail supplier, or
- (c) the Market and System Operator, or
- (d) an interstate wholesale market operator.

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

Insert at the end of the section:

- (2) This section does not apply to a wholesale supply arrangement entered into between the Market and System Operator and an interstate wholesale market operator in accordance with the terms of an interstate wholesale market agreement.

[3] Section 16

Omit the section. Insert instead:

16 Electricity distributors to convey electricity for certain persons 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 any person unless the person is:

- (a) a wholesale supplier, or
- (b) a retail supplier, or
- (c) the Market and System Operator, or
- (d) an interstate wholesale market operator.

[4] Section 19 Procedure for making standard form customer connection contracts

Omit “An electricity distributor must” wherever occurring.
Insert instead “It is a condition of an electricity distributor’s licence that the electricity distributor must”.

[5] Section 20 Matters for which standard form customer connection contracts must provide

Omit “Government Pricing Tribunal” from section 20 (3) (b).
Insert instead “Independent Pricing and Regulatory Tribunal”.

[6] Section 23 Negotiated customer connection contracts

Omit “customer connection contracts” where firstly occurring in section 23 (1).
Insert instead “arrangements for the provision of customer connection services by an electricity distributor”.

[7] Section 23 (2)

Omit “A customer connection contract”.
Insert instead “An arrangement”.

[8] Section 25 Contributions to augmentation of distribution system

Insert after section 25 (3):

- (4) In this section, *new customer* means a customer requiring new or additional customer connection services.

[9] Section 39 Procedure for making standard form customer supply contracts

Omit “A retail supplier must” wherever occurring.
Insert instead “It is a condition of a retail supplier’s licence that the retail supplier must”.

[10] Section 40 Matters for which standard form customer supply contracts must provide

Omit “Government Pricing Tribunal” from section 40 (3) (b).
Insert instead “Independent Pricing and Regulatory Tribunal”.

[11] Section 43 Negotiated customer service contracts

Omit “customer supply contracts for” from section 43 (1) (a) and (b) wherever occurring.
Insert instead “arrangements for the supply of electricity by a retail supplier to the premises of”.

[12] Section 43 (2)

Omit “A customer supply contract”.
Insert instead “An arrangement”.

[13] Section 48 Interference with electricity works by trees

Insert “or occupier” after “on the owner” in section 48 (2) (a).

[14] Section 60 Compensation

Insert “or occupier” after “owner” where firstly occurring.

[15] Section 60

Insert “or occupier, as the case requires,” after “owner” where secondly occurring.

[16] Section 63A

Insert after section 63:

63A Other powers of entry unaffected

This Division does not apply to any power of entry that an authorised officer has apart from this Division, such as a power arising under a customer connection contract.

[17] Section 78 Principal functions of Market and System Operator

Insert after section 78 (1) (e):

- (e1) entering into, and performing its obligations under, interstate wholesale market agreements,
- (e2) advising the Minister with respect to arrangements within New South Wales for the implementation of a national wholesale market for electricity,

[18] Section 78 (3) (d)

Insert after section 78 (3) (c):

, and

- (d) may include conditions with respect to the participation, by network operators and wholesale traders, in the interstate wholesale market for electricity within New South Wales and any other State or Territory.

[19] Section 82 Market Settlements Fund

Insert after section 82 (3) (a):

- (a1) all money received by or on account of the Market and System Operator for payment:
 - (i) to an interstate wholesale market operator, or
 - (ii) into an account held jointly by the Market and System Operator and an interstate wholesale market operator in accordance with the terms of an interstate wholesale market agreement, and

[20] Section 82 (4) (a1)

Insert after section 82 (4) (a):

- (a1) all money payable by the Market and System Operator:
 - (i) to an interstate wholesale market operator, or
 - (ii) into an account held jointly by the Market and System Operator and an interstate wholesale market operator in accordance with the terms of an interstate wholesale market agreement, and

[21] Section 98 Unauthorised electricity supply arrangements unenforceable

Insert at the end of the section:

- (2) This section does not apply to an electricity supply arrangement entered into between the Market and System Operator and an interstate wholesale market operator in accordance with the terms of an interstate wholesale market agreement.

[22] Section 103

Omit the section. Insert instead:

103 Recovery of fees and penalties

Any fee payable under a condition of an authorisation or licence, and any monetary penalty imposed by the Minister on the holder of an authorisation or licence, may be recovered in any court of competent jurisdiction as a debt due to the Crown.

[23] Section 106 Regulations

Insert after section 106 (1) (g):

- (g1) the development and implementation by network operators of plans designed to ensure the safe operation of their transmission or distribution

systems (including plans relating to the provision of safe electrical installations for connection to distribution systems),

[24] Section 106 (2)

Insert “, either unconditionally or subject to conditions,” after “The regulations may”.

[25] Schedule 2 Licences

Omit “to supply electricity” from clause 1 (2).

Insert instead “to enter into arrangements for the supply of electricity”.

[26] Schedule 2, clause 6 (2) (h)

Insert after clause 6 (2) (g):

- (h) a condition requiring the holder of the licence to pay an annual licence fee of such amount as may be determined by the Minister.

[27] Schedule 6 Savings, transitional and other provisions

Omit clause 16 (3) and (4).

[28] Schedule 6, clause 18

Omit “that section”. Insert instead “those sections”.

[29] Schedule 6, clause 19

Insert after clause 18:

19 Water supply functions of certain energy distributors

- (1) An energy distributor that was exercising water supply functions under section 6FB of the *Electricity Safety Act 1945* immediately before the repeal of that section may continue to exercise those functions as if that section had not been repealed.

- (2) For the purposes of this clause, the following provisions (as in force immediately before their repeal) continue to have effect, and are taken to have had effect at all times since their repeal, as if they had not been repealed:
- (a) section 6FB (subsection (5) excepted) of the *Electricity Safety Act 1945*,
 - (b) section 750 of, and Schedule 9 to, the *Local Government Act 1993*.
- (3) Schedule 3 to the *Energy Services Corporations Act 1995* applies to the transfer of staff, assets, rights or liabilities under section 6FB of the *Electricity Safety Act 1945*, as applied by subclause (2).
- (4) For the purpose of the application of the exercise of the water supply functions conferred by section 6FB of the *Electricity Safety Act 1945*, as applied by subclause (2):
- (a) the reference in subsection (1) (a) of that section to Northern Riverina Electricity is taken to be a reference to Great Southern Energy, and
 - (b) the reference in subsection (1) (c) of that section to Southern Riverina Electricity is taken to be a reference to Great Southern Energy, and
 - (c) the distribution district of Great Southern Energy is taken to be the same as the combined distribution districts of Northern Riverina Electricity and Southern Riverina Electricity, as they were immediately before 1 October 1995.
- (5) For the purpose of the application of the exercise of the water supply functions conferred by section 6FB of the *Electricity Safety Act 1945*, as applied by subclause (2):
- (a) the reference in subsection (1) (b) of that section to Oxley Electricity is taken to be a reference to NorthPower, and
 - (b) the distribution district of NorthPower is taken to be the same as the distribution district of NorthPower, as it was immediately before 1 October 1995.

- (6) This clause ceases to have effect on 1 July 1998 or on such later date as may be prescribed by the regulations.

[30] Dictionary

Insert in alphabetical order:

interstate wholesale market agreement means any arrangement, agreement or understanding entered into or agreed between the Market and System Operator and an interstate wholesale market operator for the operation of a wholesale market for electricity within New South Wales and some other State or Territory.

interstate wholesale market operator means an interstate body that operates a wholesale market for electricity in some other State or Territory.

[31] Dictionary, definition of “retail supplier”

Omit the definition. Insert instead:

retail supplier means a person who holds a retail supplier’s licence.

[32] Dictionary, definition of “wholesale supplier”

Omit the definition. Insert instead:

wholesale supplier means a person who holds a wholesale trader’s authorisation authorising the person to supply electricity under a wholesale supply arrangement.

Schedule 2 Amendment of Electricity Transmission Authority Act 1994

(Section 4)

[1] Section 9 Ancillary functions of the Authority

Insert after section 9 (1):

(1A) Without limiting subsection (1) (f), the Authority may appoint as agents, and act as agents for, the following persons:

- (a) an interstate wholesale market operator within the meaning of the *Electricity Supply Act 1995*,
- (b) NECA, being the company established under the *Corporations Law* under the corporate name of National Electricity Code Administrator Limited (ACN 073 942 775),
- (c) NEMMCO, being the company established under the *Corporations Law* under the corporate name National Electricity Market Management Company Limited (ACN 072 010 327).

[2] Section 11 Delegation of functions

Insert after section 11 (3) (b):

- (b1) an interstate wholesale market operator within the meaning of the *Electricity Supply Act 1995*, or
- (b2) NECA, being the company established under the *Corporations Law* under the corporate name of National Electricity Code Administrator Limited (ACN 073 942 775), or

(b3) NEMMCO, being the company established under the *Corporations Law* under the corporate name National Electricity Market Management Company Limited (ACN 072 010 327), or

[Minister's second reading speech made in—
Legislative Council on 14 May 1997
Legislative Assembly on 29 May 1997]