



New South Wales

Electricity Supply Amendment (Protection of Electricity Works) Act 2006 No 28

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Electricity Supply Amendment (Protection of Electricity Works) Act 2006 No 28

Act No 28, 2006

An Act to amend the *Electricity Supply Act 1995* so as to protect the presence, operation and use of certain electricity works and clarify the provisions of that Act with respect to the removal of structures and things that may endanger electricity works; and for other purposes. [Assented to 26 May 2006]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Electricity Supply Amendment (Protection of Electricity Works) Act 2006*.

2 Commencement

This Act commences 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 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendments

(Section 3)

[1] Section 49 Obstruction of electricity works

Omit section 49 (1). Insert instead:

- (1) This section applies if a network operator has reasonable cause to believe that any structure or thing situated in, on or near its electricity works:
 - (a) could destroy, damage or interfere with those works, or
 - (b) could make those works become a potential cause of bush fire or a potential risk to public safety.

[2] Section 49 (7)–(9)

Insert after section 49 (6):

- (7) A network operator may take action under this section even if the person having control of the structure or thing owns or occupies the land in, on or over which the network operator's electricity works are situated.
- (8) Subsection (5) does not enable the network operator to recover any costs referred to in that subsection from a person referred to in subsection (7):
 - (a) where the electricity works are works to which section 53 applies, if the structure or thing had been lawfully placed in its present position:
 - (i) before the commencement of the *Electricity Supply Amendment (Protection of Electricity Works) Act 2006*, or
 - (ii) after the commencement of that Act, but with the agreement of the network operator, or
 - (b) in any other case, if the existence of the structure or thing in its present position does not contravene the terms of any easement, agreement or other authority that supports the presence of the electricity works in, on or over the land.
- (9) In the circumstances referred to in subsection (8):
 - (a) the costs referred to in subsection (5) are to be borne by the network operator, and
 - (b) the network operator is liable to the owner of the structure or thing for any loss or damage suffered by the owner as a consequence of the work referred to in subsection (4).

[3] Section 53

Insert after section 52:

53 Protection of certain electricity works

- (1) This section applies to all electricity works that, immediately before the commencement of the *Electricity Supply Amendment (Protection of Electricity Works) Act 2006*, were situated in, on or over land not owned by the network operator having control of those works, whether or not their presence, operation or use is supported by an agreement or other authority:
 - (a) including any electricity works that, since that commencement, have been erected or installed on the same site for the purpose of repairing, replacing, modifying or upgrading those works, and
 - (b) excluding any electricity works whose presence in, on or over the land is supported by a registered easement in favour of the network operator.
- (2) No action by the owner or occupier of the land lies against the network operator by reason of:
 - (a) the presence in, on or over the land of electricity works to which this section applies, or
 - (b) the operation or use of electricity works to which this section applies that are present in, on or over the land,and, as between the owner or occupier of the land and the network operator, the presence of those works, and their operation and use, are taken to be lawful for all purposes.
- (3) Nothing in subsection (2) relieves a person from any civil liability for negligence (as defined by section 5 of the *Civil Liability Act 2002*) to which the person becomes subject as a consequence of the way in which any electricity works to which this section applies are operated or used, are maintained, repaired, replaced, modified or upgraded or are removed.
- (4) In this section, **registered easement** means an easement that is registered:
 - (a) in the Register kept under the *Real Property Act 1900*, in the case of land under the provisions of that Act, or
 - (b) in the General Register of Deeds kept under the *Conveyancing Act 1919*, in the case of any other land.

[4] Schedule 6 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

*Electricity Supply Amendment (Protection of Electricity Works)
Act 2006*

[5] Schedule 6, Part 7

Insert after Part 6:

**Part 7 Provisions consequent on enactment of
Electricity Supply Amendment (Protection
of Electricity Works) Act 2006**

47 Definitions

In this Part:

the 2006 amending Act means the *Electricity Supply Amendment
(Protection of Electricity Works) Act 2006*.

the relevant time means the time the Bill for the 2006 amending
Act was first introduced into Parliament.

48 Pending proceedings commenced before relevant time

In proceedings commenced before the relevant time in respect of
a cause of action of the kind referred to in section 53 (2), as
inserted by the 2006 amending Act, the court before which the
proceedings are being heard may not make any order requiring
modification or removal of works to which section 53 applies.

49 Pending proceedings commenced after relevant time

Section 53, as inserted by the 2006 amending Act, applies for the
purposes of legal proceedings commenced since the relevant
time, and so applies as if it had commenced at that time.

[Second reading speech made in—

Legislative Assembly on 2 May 2006

Legislative Council on 23 May 2006]

BY AUTHORITY