



New South Wales

Electricity Infrastructure Investment Regulation 2021

under the

Electricity Infrastructure Investment Act 2020

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Electricity Infrastructure Investment Act 2020*.

MATT KEAN, MP
Minister for Energy and Environment

Explanatory note

The object of this Regulation is to provide for the membership, functions and procedures of the NSW renewable energy sector board established by the Minister for Energy and Environment under section 7 of the *Electricity Infrastructure Investment Act 2020*.

This Regulation is made under the *Electricity Infrastructure Investment Act 2020*, including sections 7(7), 8(1)(d) and 79 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature.

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Electricity Infrastructure Investment Regulation 2021*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

3 Definitions

In this Regulation—

appointed member means a member of the Board appointed by the Minister under section 7(2)(a) or (c) of the Act.

Board means the board for manufacturing and construction in the NSW renewable energy sector established under section 7 of the Act.

joint chairperson means either of the 2 members appointed as the joint chairperson of the Board under section 7(3) of the Act.

member means any member of the Board.

plan has the same meaning as in Part 2 of the Act.

the Act means the *Electricity Infrastructure Investment Act 2020*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

Part 2 NSW renewable energy sector board

4 Functions of Board

- (1) The Board may advise the Minister on any matter to which a plan may relate.
- (2) The Board must review a plan under section 7(4)(b) of the Act at least once every 2 years after the plan is approved by the Minister.

5 Objectives of plan

For the purposes of section 8(1)(d) of the Act, the following objectives are prescribed—

- (a) to protect the financial interests of NSW electricity customers,
- (b) to be consistent with Australia's international trade obligations.

6 Term of office

- (1) An appointed member holds office for a term of 3 years and may be re-appointed.
- (2) A person may not be appointed as an appointed member for more than 9 years in total, whether or not consecutively.

7 Members and procedures of the Board

Schedule 1 contains provisions relating to the members and procedures of the Board.

Schedule 1 Members and procedures of NSW renewable energy sector board

clause 7

1 Payment of allowances

An appointed member is entitled to be paid allowances to reimburse the member for expenses, including travel and accommodation, as determined by the Minister.

2 Vacancy

- (1) The office of an appointed member becomes vacant if the appointed member—
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by written instrument to the Minister, or
 - (d) is removed by the Minister under subclause (2), or
 - (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration for their benefit, or
 - (f) becomes a mentally incapacitated person, or
 - (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove an appointed member from office at any time.

3 Disclosure of pecuniary and other interests

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

- (5) The member who made the disclosure may be present at the time the Board is making a determination under subclause (4) but must not take part in the making of the determination.
- (6) Before making a determination under subclause (4), the Board must consult with a person who has relevant experience in probity and conflicts of interest.
- (7) A contravention of this clause does not invalidate a decision of the Board.

4 General procedure

- (1) The joint chairpersons together may call a Board meeting at any time.
Note. Section 7(5) of the Act requires the Board to meet at least once every 6 months.
- (2) The joint chairpersons together must call a Board meeting if requested by a simple majority of the members.
- (3) The procedure for the calling of Board meetings and for the conduct of business at those meetings is, subject to the Act and this Regulation, to be determined by the Board.

5 Presiding member

- (1) Each joint chairperson is to preside at alternate Board meetings, as agreed to by both joint chairpersons or, in the absence of an agreement, as determined by the Secretary.
- (2) In the absence of the joint chairperson nominated to preside at a Board meeting, the other joint chairperson is to preside at the meeting.
- (3) In the absence of both joint chairpersons at a Board meeting, a member elected by the members who are present at the meeting is to preside at the meeting.

6 Quorum

- (1) The quorum for a Board meeting is a majority of the members for the time being, subject to subclause (2).
- (2) The quorum must consist of at least—
 - (a) 1 member appointed under section 7(2)(a)(i), (ii) or (vii) of the Act, and
 - (b) 1 member appointed under section 7(2)(a)(iii)–(vi) of the Act, and
 - (c) 1 member appointed under section 7(2)(a)(viii) of the Act, and
 - (d) 1 member appointed under section 7(2)(a)(ix) of the Act, and
 - (e) the Energy Corporation.

7 Voting

- (1) A decision supported by the majority of votes cast at a Board meeting at which a quorum is present is the decision of the Board, subject to subclauses (2)–(4).
- (2) A majority must consist of—
 - (a) a majority of the votes cast by the members appointed under section 7(2)(a)(i)–(vii) of the Act, and
 - (b) a majority of the votes cast by the members appointed under section 7(2)(a)(viii) and (ix) and (c) of the Act and the Energy Corporation.
- (3) If there is an equality of votes among the votes cast by the members specified in subclause (2)(a), the member who is also appointed as joint chairperson under section 7(3)(a) of the Act has a second or casting vote.

- (4) If there is an equality of votes among the votes cast by the members specified in subclause (2)(b), the member who is also appointed as joint chairperson under section 7(3)(b) of the Act has a second or casting vote.

8 Transaction of business outside meetings or by telecommunication

- (1) The Board may, if it thinks fit, transact any of its business—
- (a) by the circulation of papers, by email or other electronic means, among all members, or
 - (b) at a meeting at which all or some members participate by telephone, audio-visual link or other means, but only if a member who speaks on a matter at the meeting can be heard by the other members.
- (2) If the Board transacts its business by the circulation of papers under subclause (1)(a), a written resolution approved in writing by a majority of the members, as specified in clause 7 of this Schedule, is taken to be a decision of the Board made at a Board meeting.
- (3) For the purposes of a meeting held under subclause (1)(b) or the approval of a resolution under subclause (2), each member has the same voting rights as at an ordinary Board meeting.
- (4) A resolution approved under subclause (2) is to be recorded in the minutes of the Board meeting.

9 Alternate members

- (1) An appointed member may, at any time with the approval of the Secretary, appoint a person to act in the place of the appointed member during the absence or illness of the member.
- (2) While acting in the place of the appointed member, the alternate member has all the functions of the appointed member and is taken to be an appointed member.
- (3) The Secretary may delegate the Secretary's function under subclause (1) to an employee of the Department.

10 Minutes

The Board must keep minutes of each Board meeting and the minutes must include all decisions of the Board.

11 Code of conduct

The Minister may issue a code of conduct for appointed members.

12 First meeting

The Secretary may call the first Board meeting as the Secretary thinks fit.