



New South Wales

Electricity Infrastructure Investment Amendment 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 make provision in relation to—

- (a) the appointment of the electricity infrastructure jobs advocate, and
- (b) energy security targets, including the reports prepared by the energy security target monitor.

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1 Name of Regulation

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

2 Commencement

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

Schedule 1 Amendment of Electricity Infrastructure Investment Regulation 2021

[1] Clause 3 Definitions

Insert in alphabetical order—

advocate means the electricity infrastructure jobs advocate.

[2] Part 2, heading

Insert “and electricity infrastructure jobs advocate” after “board”.

[3] Part 2, Division 1, heading

Insert before clause 4—

Division 1 The Board—the Act, s 7(7)

[4] Part 2, Division 2

Insert after clause 7—

Division 2 The advocate—the Act, s 11(5)

8 Employment and remuneration

- (1) The office of the advocate is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to the office, except as provided by this clause.
- (2) The following provisions of, or made under, the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to the advocate—
 - (a) provisions relating to the band in which an executive will be employed,
 - (b) provisions relating to the contract of employment of an executive,
 - (c) provisions relating to the remuneration, employment benefits and allowances of an executive,
 - (d) provisions relating to the termination of employment of an executive.
- (3) For the purposes of applying the provisions of the *Government Sector Employment Act 2013* to the advocate under subclause (2), a reference to the employer of a Public Service senior executive is taken to be a reference to the Minister.

9 Vacancy in office

The office of the advocate becomes vacant if the advocate—

- (a) dies, or
- (b) completes a term of office and is not re-appointed, or
- (c) resigns from the office by written instrument to the Minister, or
- (d) is removed from office, or

Note—The advocate may be removed under the *Government Sector Employment Act 2013*, section 41 or Part 6.

- (e) becomes bankrupt or insolvent, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or

makes an assignment of the advocate's remuneration for the creditors' benefit, or

- (f) becomes a mentally incapacitated person, or
- (g) is convicted in New South Wales of an offence punishable by imprisonment for 12 months or more, or
- (h) is convicted outside of New South Wales of an offence that, if committed in New South Wales, would be punishable by imprisonment for 12 months or more.

10 Disclosure of pecuniary and other interests

- (1) This clause applies if—
 - (a) the advocate has a direct or indirect pecuniary or other interest in a matter about which the advocate is advising, or is about to advise, the Minister, and
 - (b) the interest appears to raise a conflict with the proper performance of the advocate's duties in relation to advising on the matter.
- (2) For the purposes of subclause (1), the advocate is not taken to have a pecuniary or other interest if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence the advice the advocate might give to the Minister.
- (3) The advocate must, as soon as possible after the relevant facts have come to the advocate's knowledge, disclose the nature of the interest to the Minister.
- (4) It is sufficient disclosure of the nature of an interest relating to a specified company, body or person that arises after the date of the disclosure if the advocate has disclosed that the advocate—
 - (a) is a member, or is in the employment, of the company or other body, or
 - (b) is a partner, or is in the employment, of the person, or
 - (c) has some other specified interest relating to the company, body or person.
- (5) If a disclosure made under this clause relates to a matter about which the advocate is advising, particulars of the disclosure must be included in the advice to the Minister about the matter.

11 Code of conduct

The Minister may issue a code of conduct for the advocate.

[5] Part 2A

Insert after Part 2—

Part 2A Energy security targets

12 Interpretation

Words used in this Part have the same meaning as in the *National Electricity Rules*.

13 Calculating maximum demand—the Act, s 12(3)

- (1) In calculating the maximum demand for a financial year, the energy security target monitor must—

- (a) take into account the most recent forecast of maximum demand for sent out generation in New South Wales in summer, as published by AEMO, and
 - (b) adjust the forecast to reflect the maximum demand as generated by generating units in New South Wales in summer.
- (2) In calculating the maximum demand for a financial year, the energy security target monitor must also take into account the forecast of use of distributed energy resources in New South Wales in the financial year, as specified in the most recent statement of opportunities.
- (3) In this clause—
distributed energy resource means a device, not directly connected to network infrastructure, that can generate or store electricity.

14 Calculating firm capacity—the Act, Dictionary, definition of “firm capacity”

- (1) In calculating the firm capacity for a financial year, the energy security target monitor must take into account the following capacity—
- (a) the capacity of scheduled generating units in New South Wales in the summer of the financial year,
 - (b) the capacity of semi-scheduled generating units in New South Wales in the summer of the financial year,
 - (c) the capacity of non-scheduled generating units in New South Wales, as the energy security target monitor considers appropriate,
 - (d) the capacity of interconnectors in New South Wales, operating under normal conditions,
 - (e) the capacity from demand response, other than capacity expected to be available under the reliability and emergency reserve trader.
- (2) In calculating the firm capacity for a financial year, the energy security target monitor must also take into account the capacity of the following if, in the energy security target monitor’s opinion, the capacity is likely to be available to NSW electricity customers in the financial year—
- (a) generating units listed, at the time of the calculation, as existing or committed on the generation information page,
 - (b) generating units that will be constructed and operated under an LTES agreement,
 - (c) generating units that will be constructed under funding programs run by, or on behalf of, a NSW or Commonwealth government agency,
 - (d) interconnectors for which a revenue determination has been made under rule 6A.4 of the *National Electricity Rules*,
 - (e) interconnectors for which a determination has been made under the Act, section 38,
 - (f) interconnectors under a priority transmission infrastructure project to which a direction under the Act, section 32(1)(b) relates.
- (3) In calculating the firm capacity for a financial year, the energy security target monitor must also take into account information about demand side participation, as specified in the most recent statement of opportunities.

15 Additional information for calculating firm capacity—the Act, Dictionary, definition of “firm capacity”

- (1) In calculating the capacity of generating units for the purposes of clause 14, the energy security target monitor must take into account information on the generation information page.
- (2) In calculating the capacity of semi-scheduled generating units and non-scheduled generating units for the purposes of clause 14, the energy security target monitor must take into account—
 - (a) information about the amount of electricity produced, at times of peak demand in summer over the past three financial years, by generating units that use variable renewable energy sources, for example, the sun, waves and wind, and
 - (b) based on the information in paragraph (a)—the amount of electricity likely to be produced, at times of peak demand in summer in the financial year, by generating units that use each variable renewable energy source.
- (3) In calculating the capacity of interconnectors for the purposes of clause 14, the energy security target monitor must take into account information about interconnectors operating under normal conditions, as specified in the most recent—
 - (a) Inputs, Assumptions and Scenarios Report, and
 - (b) ISP methodology.

16 Energy security target monitor reports—the Act, s 13

- (1) In preparing a report under the Act, section 13(1), the energy security target monitor must take into account each scenario and the sensitivities relating to each scenario, as specified in the most recent statement of opportunities, to the extent they relate to New South Wales.
- (2) The report must include the following for each scenario and the sensitivities relating to each scenario, to the extent they relate to New South Wales—
 - (a) the energy security target monitor’s forecast of variations to—
 - (i) the maximum demand, and
 - (ii) the firm capacity, and
 - (iii) any target breach,
 - (b) an analysis of the factors that might affect the forecast of variations to a target breach, for example, whether generating units that are being constructed or have been committed will be constructed on time.

[6] Clause 8 Appointment of consumer trustee—the Act, s 66(5)(a)

Renumber as clause 17.