



New South Wales

Energy and Utilities Administration Amendment (Climate Change Fund) Bill 2007

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to establish the Climate Change Fund under the *Energy and Utilities Administration Act 1987* (the **Principal Act**) for the purposes of providing funding in relation to water and energy savings measures across the State (including reducing the impacts of climate change). The new Fund is a consolidation of the Energy Savings Fund and the Water Savings Fund currently established under the Principal Act and may be applied for purposes similar to those for which the existing funds may be applied.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on 1 July 2007.

Clause 3 is a formal provision that gives effect to the amendments to the *Energy and Utilities Administration Act 1987* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the consequential amendments to the *Electricity Supply Act 1995* set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Energy and Utilities Administration Act 1987

Schedule 1 [3] substitutes Divisions 2 and 3 of Part 6A of the Principal Act. The new Division 2 (proposed sections 34E–34I) establishes the Climate Change Fund (which is a continuation of the existing Water and Energy Savings Funds that are established separately under existing Divisions 2 and 3) and sets out the purposes of the new Fund and what money is to be paid into and out of the Fund. The purposes of the new Fund are similar to the existing funds (eg to provide funding to encourage water and energy savings) but will also include providing funding to reduce the impacts of climate change. Similar to the existing funds, the proposed Division provides that money may be paid out of the Fund with the approval of the Minister to fund all or any part of the cost of any water or energy savings measure that the Minister is satisfied promotes a purpose of the Fund. In the case of water saving measures, the application of the Fund will no longer be limited to a water savings area as currently defined in the Principal Act (ie the area of operations of Sydney Water and the local governments areas of Gosford and Wyong) but will be available to fund water savings measures in any area of the State.

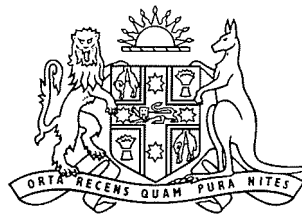
The new Division 3 (proposed sections 34J–34M) of Part 6A replicates the existing provisions of Divisions 2 and 3 that enable the Minister, by order published in the Gazette (referred to in the new Division as a *contributions order*), to require State water agencies (such as Sydney Water) and distribution network service providers (within the meaning of the *Electricity Supply Act 1995*) to make annual contributions to the existing funds.

Schedule 1 [1] and [2] make consequential amendments on the establishment of the Climate Change Fund and the replacement of the existing Water and Energy Savings Funds.

Schedule 1 [4] enables regulations of a savings or transitional nature to be made as a consequence of the proposed Act. **Schedule 1 [5]** provides that the Climate Change Fund is a continuation of the existing Water and Energy Savings Funds and continues the operation of any contributions order made under existing Division 2 or 3 of Part 6A of the Principal Act.

Schedule 2 Consequential amendment of Electricity Supply Act 1995

Schedule 2 contains amendments to the *Electricity Supply Act 1995* that are consequential on the establishment of the Climate Change Fund (and the replacement of the Energy Savings Fund) and the renumbering of the provision that enables the Minister to require distribution network service providers to make annual contributions.



New South Wales

Energy and Utilities Administration Amendment (Climate Change Fund) Bill 2007

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Energy and Utilities Administration Act 1987 No 103	2
4 Consequential amendment of Electricity Supply Act 1995 No 94	2
5 Repeal of Act	2
Schedule 1 Amendment of Energy and Utilities Administration Act 1987	3
Schedule 2 Consequential amendment of Electricity Supply Act 1995	9



New South Wales

Energy and Utilities Administration Amendment (Climate Change Fund) Bill 2007

No. , 2007

A Bill for

An Act to amend the *Energy and Utilities Administration Act 1987* to establish the Climate Change Fund and to specify the purposes for which it may be applied; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Energy and Utilities Administration Amendment (Climate Change Fund) Act 2007</i> .	3 4
2 Commencement	5
This Act commences or is taken to have commenced on 1 July 2007.	6
3 Amendment of Energy and Utilities Administration Act 1987 No 103	7
The <i>Energy and Utilities Administration Act 1987</i> is amended as set out in Schedule 1.	8 9
4 Consequential amendment of Electricity Supply Act 1995 No 94	10
The <i>Electricity Supply Act 1995</i> is amended as set out in Schedule 2.	11
5 Repeal of Act	12
(1) This Act is repealed on the day following the day on which this Act commences.	13 14
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	15 16

Schedule 1	Amendment of Energy and Utilities Administration Act 1987	1
		2
	(Section 3)	3
[1] Section 3 Definitions		4
	Insert the following definitions in alphabetical order in section 3 (1):	5
	<i>Climate Change Fund</i> means the Climate Change Fund established under section 34E.	6
	<i>contributions order</i> means an order under section 34J.	7
[2] Section 3 (1), definitions of “Energy Savings Fund” and “Water Savings Fund”		9
	Omit the definitions.	10
[3] Part 6A, Divisions 2 and 3		11
	Omit the Divisions. Insert instead:	12
Division 2	Climate Change Fund	13
34E	Establishment of Climate Change Fund	14
	There is to be established in the Special Deposits Account a fund called the “Climate Change Fund” (referred to in this Part as <i>the Fund</i>).	15
34F	Purposes of Climate Change Fund	16
	The purposes of the Fund are as follows:	17
	(a) to provide funding to reduce greenhouse gas emissions and the impacts of climate change associated with water and energy activities,	18
	(b) to provide funding to encourage water and energy savings and the recycling of water,	19
	(c) to provide funding to reduce the demand for water and energy, including addressing peak demand for energy,	20
	(d) to provide funding to stimulate investment in innovative water and energy savings measures,	21
	(e) to provide funding to increase public awareness and acceptance of the importance of climate change and water and energy savings measures,	22
	(f) to provide funding for contributions made by the State for the purposes of national energy regulation.	23

34G	Payments into Climate Change Fund	1
(1)	There is payable into the Fund:	2
(a)	all money received from contributions required to be made to the Fund under Division 3, and	3 4
(b)	all money advanced by the Treasurer for the Fund, and	5
(c)	all money appropriated by Parliament for the purposes of the Fund, and	6 7
(d)	the proceeds of the investment of money in the Fund, and	8
(e)	all money directed or authorised to be paid into the Fund by or under this or any other Act or law, and	9 10
(f)	all money received from voluntary contributions to the Fund made by any other person or body.	11 12
(2)	Without limiting subsection (1) (f), State agencies are authorised by this section to make voluntary contributions to the Fund.	13 14
(3)	Subsection (2) does not authorise a State water agency or a distribution network service provider to refuse to pay a contribution to the Fund that is payable under Division 3.	15 16 17
34H	Payments out of Climate Change Fund	18
(1)	There is payable from the Fund:	19
(a)	any money approved by the Minister to fund all or any part of the cost of any measure that the Minister is satisfied promotes a purpose referred to in section 34F, and	20 21 22
(b)	any money approved by the Minister to fund all or any part of the contributions that the State is required to make for the purposes of national energy regulation, and	23 24 25
(c)	any money required to meet administrative expenses related to the Fund, and	26 27
(d)	any money required to meet administrative expenses of the Minister in connection with the Minister's functions under this Act in relation to savings action plans, and	28 29 30
(e)	any money directed or authorised to be paid from the Fund by or under this or any other Act or law.	31 32
(2)	In exercising the Minister's functions under subsection (1) (a) (but without limiting the generality of that paragraph), the Minister may:	33 34 35
(a)	approve selection criteria from time to time to be applied to determine the kinds of water or energy savings measures that will be eligible for funding, and	36 37 38

(b)	require a person or body seeking funding for a water or energy savings measure to do either or both of the following as a precondition to applying for or obtaining funding:	1 2 3 4
(i)	to submit a water savings action plan or energy savings action plan (as the case requires) that includes details about the measure,	5 6 7
(ii)	to provide any other information requested by the Minister about the measure, and	8 9
(c)	obtain and have regard to any advice, recommendations or other information provided to the Minister by a committee established by the Minister under Division 5, or by any other person or body, that the Minister considers relevant.	10 11 12 13
34I	Investment of money in Climate Change Fund	14
	The Minister may invest money in the Fund:	15
(a)	in such manner as may be authorised by the <i>Public Authorities (Financial Arrangements) Act 1987</i> , or	16 17
(b)	if that Act does not confer power on the Minister to invest the money, in any other manner approved by the Treasurer.	18 19
Division 3	Required contributions to Climate Change Fund	20 21
34J	Minister may require State water agencies or distribution network service providers to make contributions to Climate Change Fund	22 23
(1)	The Minister may, by order published in the Gazette, require any one or more State water agencies or distribution network service providers to make an annual contribution for a specified financial year to the Fund.	24 25 26 27
	Note. The Minister may amend or repeal an order made under this section. See section 43 of the <i>Interpretation Act 1987</i> .	28 29
(2)	A contributions order:	30
(a)	must specify the annual contributions payable by each State water agency or distribution network service provider to which the order applies (being an amount that does not exceed the maximum amount, if any, prescribed by the regulations), and	31 32 33 34 35
(b)	may specify that an annual contribution may be paid by instalments during the financial year to which the order applies, and	36 37 38

(c)	must specify the time or, in the case of an annual contribution that is payable by instalments, the times at which any contribution required under the order is to be made, and	1 2 3 4
(d)	may be made before or during the financial year to which the order relates.	5 6
34K	General provisions relating to contributions orders	7
(1)	The Minister is to cause a copy of a contributions order to be served on the State water agencies or distribution network service providers to which the order applies as soon as is reasonably practicable after the order is published in the Gazette.	8 9 10 11
(2)	A failure to comply with subsection (1) does not affect the validity of a contributions order.	12 13
(3)	Despite any other Act or law, a State water agency or distribution network service provider to which a contributions order applies must pay into the Fund such amounts at such times as may be required by the order.	14 15 16 17
(4)	An amount that is payable by a State water agency or distribution network service provider under a contributions order may be recovered by the Minister as a debt in any court of competent jurisdiction for payment into the Fund.	18 19 20 21
34L	Special provisions relating to contributions orders applying to State water agencies	22 23
(1)	If a State water agency to which a proposed contributions order is to apply is constituted by or under an Act that is administered by a Minister other than the Minister administering section 34J of this Act, the order may be made only with the concurrence of the Minister administering the Act by or under which the agency is constituted.	24 25 26 27 28 29
(2)	If a State water agency to which a proposed contributions order is to apply is a local water utility within the meaning of the <i>Water Management Act 2000</i> but not a State owned corporation, the Minister must consult with each of the following before making the order:	30 31 32 33 34
(a)	the State water agency,	35
(b)	the Local Government and Shires Associations of New South Wales.	36 37

(3)	If the Independent Pricing and Regulatory Tribunal is required by or under the <i>Independent Pricing and Regulatory Tribunal Act 1992</i> to determine a maximum price for a water service provided by a State water agency, any requirement imposed on the agency by a contributions order to pay an amount into the Fund is to be treated for the purposes of section 16A of that Act as a requirement with which the agency must comply in providing the service.	1 2 3 4 5 6 7 8
	Note. Section 16A of the <i>Independent Pricing and Regulatory Tribunal Act 1992</i> enables the Minister responsible for a government agency to direct the Tribunal, when it makes a determination of the maximum price for a government monopoly service provided by the agency, to include in the maximum price an amount representing the efficient cost of complying with a specified requirement imposed on the agency. It also enables the Minister to direct the Tribunal, when it makes a determination of the methodology for fixing the maximum price for the service, to include in the methodology a factor representing such a cost.	9 10 11 12 13 14 15 16 17
34M	Special provisions relating to contributions orders applying to distribution network service providers	18 19
	A proposed contributions order that is to apply to a distribution network service provider may be made only with:	20 21
	(a) the concurrence of the Treasurer, and	22
	(b) if section 14 (Licences) of the <i>Electricity Supply Act 1995</i> is administered by a Minister other than the Minister administering section 34J of this Act—the concurrence of the Minister administering section 14 of that Act.	23 24 25 26
[4]	Schedule 2 Savings, transitional and other provisions	27
	Insert at the end of clause 1 (1):	28
	<i>Energy and Utilities Administration Amendment (Climate Change Fund) Act 2007</i>	29 30

[5] Schedule 2, Part 5	1
Insert after Part 4:	2
Part 5 Provisions consequent on enactment of Energy and Utilities Administration Amendment (Climate Change Fund) Act 2007	3 4 5 6
12 Continuity of Fund	7
The Climate Change Fund is a continuation of the Water Savings Fund and the Energy Savings Fund operating under this Act immediately before the commencement of the <i>Energy and Utilities Administration Amendment (Climate Change Fund) Act 2007</i> .	8 9 10 11 12
13 Existing contributions orders	13
Any order in force under section 34J or 34P of this Act as in force immediately before the commencement of the <i>Energy and Utilities Administration Amendment (Climate Change Fund) Act 2007</i> is taken to be a contributions order in force under section 34J (as substituted by that Act).	14 15 16 17 18

Schedule 2	Consequential amendment of Electricity Supply Act 1995	1
		2
	(Section 4)	3
[1]	Part 4, Division 3A, heading	4
	Omit “Energy Savings Fund”. Insert instead “Climate Change Fund”.	5
[2]	Section 42A Definitions	6
	Omit the definition of <i>Energy Savings Fund</i> . Insert instead:	7
	<i>Climate Change Fund</i> means the Climate Change Fund	8
	established under section 34E of the <i>Energy and Utilities</i>	9
	<i>Administration Act 1987</i> .	10
[3]	Section 42A, definition of “Fund contribution”	11
	Omit “Energy Savings Fund by an order made under section 34P”.	12
	Insert instead “Climate Change Fund by an order made under section 34J”.	13