



New South Wales

Electricity Supply Amendment (GGAS Abatement Certificates) Bill 2009

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to prevent a person from applying for accreditation as an abatement certificate provider under Part 8A of the *Electricity Supply Act 1995* (the *Principal Act*) on or after 1 July 2009 (or any later date that may be prescribed),
- (b) to provide that an abatement certificate cannot be created under Part 8A of the Principal Act in relation to category A generation occurring on or after 1 July 2009 (or any later date that may be prescribed),
- (c) to provide that compensation is not payable by the State in relation to the enactment, making or operation of Part 8A of the Principal Act, any Act that amends that Part (including the proposed Act) or the termination of the scheme set out in that Part or related conduct or actions.

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 the date of assent to the proposed Act.

Schedule 1 Amendment of Electricity Supply Act 1995 No 94

Schedule 1 [1] updates two references to the head of The Cabinet Office. This amendment is consistent with clause 2 of the *Public Sector Employment and Management (Cabinet Office) Order 2009*, which provides that those particular references are to be construed as being to either the Director-General of the Department of Premier and Cabinet or the Deputy Director General, (General Counsel), Department of Premier and Cabinet.

Schedule 1 [5] provides that a person may not apply for accreditation as an abatement certificate provider under Part 8A of the Principal Act on or after 1 July 2009 (or any later date that may be prescribed).

Schedule 1 [6] provides that an abatement certificate cannot be created under Part 8A of the Principal Act in relation to category A generation that occurs on or after 1 July 2009 (or any later day that may be prescribed). Any such abatement certificate cannot be created after 1 October 2009, or if a later day is prescribed, 3 months after that later day. **Schedule 1 [2]–[4]** make consequential amendments.

Schedule 1 [7] provides that compensation is not payable by or on behalf of the State in relation to the enactment, making or operation of Part 8A of the Principal Act, any Act that amends that Part (including the proposed Act) or any instrument under that Part, or in relation to any statement or conduct relating to any such enactment, making or operation or any statement or conduct in relation to accreditation as an abatement certificate provider or to abatement certificates.

Schedule 1 [8] permits the regulations to contain provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

First print



New South Wales

Electricity Supply Amendment (GGAS Abatement Certificates) Bill 2009

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Electricity Supply Act 1995 No 94	3



New South Wales

Electricity Supply Amendment (GGAS Abatement Certificates) Bill 2009

No. , 2009

A Bill for

An Act to amend the *Electricity Supply Act 1995* with respect to abatement certificates and abatement certificate providers and the liability of the State in connection with the GGAS Scheme; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Electricity Supply Amendment (GGAS Abatement Certificates) Act 2009</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1	Amendment of Electricity Supply Act	1
	1995 No 94	2
[1]	Sections 43EI (2) and 97HD (2)	3
	Omit “head of The Cabinet Office” wherever occurring.	4
	Insert instead “Director-General of the Department of Premier and Cabinet or the Deputy Director General, (General Counsel), Department of Premier and Cabinet”.	5 6 7
[2]	Section 97AB Definitions	8
	Insert in alphabetical order:	9
	<i>category A generation</i> means category A generation, as referred to in the document entitled <i>Greenhouse Gas Emissions from Electricity Supplied in NSW: Emissions Workbook</i> published by the Ministry of Energy and Utilities in October 2000.	10 11 12 13
[3]	Section 97DA Eligibility for accreditation	14
	Omit “, as referred to in the Emissions Workbook” from section 97DA (6).	15
[4]	Section 97DA (7)	16
	Omit the subsection.	17
[5]	Section 97DB Application for accreditation	18
	Insert after section 97DB (1):	19
	(1A) An application cannot be made on or after 1 July 2009 or such later day as may be prescribed by the regulations.	20 21
[6]	Section 97EC When certificates may be created	22
	Omit section 97EC (2). Insert instead:	23
	(2) An abatement certificate cannot be created in relation to an activity later than 6 months after the end of the year in which the activity takes place.	24 25 26
	(2A) An abatement certificate cannot be created in relation to category A generation occurring on or after 1 July 2009 or such later day as may be prescribed by the regulations.	27 28 29
	(2B) An abatement certificate cannot be created in relation to category A generation after 1 October 2009, or if a later day is prescribed under subsection (2A), more than 3 months after that later day.	30 31 32
	(2C) If a later day is prescribed under subsection (2A), the regulations may also provide for transitional arrangements in relation to any	33 34

category A generation occurring after 1 July 2009 and before that later day, including by providing an exemption from subsection (2).

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[7] **Section 98A**

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Insert before section 98:

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98A Compensation not payable

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- (1) Compensation is not payable by or on behalf of the State:
- (a) because of the enactment, making or operation of any of the following:
- (i) Part 8A,
- (ii) the *Electricity Supply Amendment (GGAS Abatement Certificates) Act 2009* or any other Act that amends that Part,
- (iii) any instrument under that Part, or
- (b) because of any consequence of any such enactment, making or operation, or
- (c) because of any statement or conduct relating to any such enactment, making or operation, or
- (d) because of any statement or conduct relating to accreditation as an abatement certificate provider under Part 8A or to abatement certificates within the meaning of that Part.
- (2) The section extends to statements, conduct and any other matter occurring before the commencement of this section.
- (3) In this section:
- compensation** includes damages or any other form of monetary compensation.
- conduct** includes any act or omission, whether unconscionable, misleading, deceptive or otherwise.
- statement** includes a representation of any kind:
- (a) whether made verbally or in writing, and
- (b) whether negligent, false, misleading or otherwise.
- the State** means the Crown within the meaning of the *Crown Proceedings Act 1988* or an officer, employee or agent of the Crown.

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[8] Schedule 6 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

*Electricity Supply Amendment (GGAS Abatement Certificates) Act
2009*

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