

[Act 1995 No 18]



New South Wales

Electricity Legislation Amendment Bill 1995

Explanatory note

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

Overview of Bill

The object of this Bill is to amend various Acts so as:

- (a) to reconstitute the governing bodies of the Electricity Commission, the Electricity Transmission Authority, Sydney Electricity and other electricity distributors, and
- (b) to reconstitute the Electricity Commission as a new statutory authority under the name of Pacific Power (the business name under which it currently trades), and
- (c) to require Pacific Power, the Electricity Transmission Authority, Sydney Electricity and other electricity distributors to comply with Ministerial directions regarding the restructuring of the electricity industry, and

* Amended in committee—see table at end of volume.

- (d) to enable the Electricity Transmission Authority to develop a wholesale market for electricity, and
- (e) to facilitate the amalgamation of electricity distributors, and
- (f) to enact other provisions of a minor, consequential or ancillary nature.

Outline of provisions

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

Clause 2 provides that the proposed Act will commence on a day or days to be proclaimed.

Clause 3 gives effect to the Schedule of amendments to the *Electricity Commission Act 1950*.

Clause 4 gives effect to the Schedule of amendments to the *Electricity Transmission Authority Act 1994*.

Clause 5 gives effect to the Schedule of amendments to the *Sydney Electricity Act 1990*.

Clause 6 gives effect to the Schedule of amendments to the *Electricity Act 1945*.

Clause 7 gives effect to the Schedule of amendments to other Acts.

Clause 8 repeals regulations under the *Electricity Commission Act 1950* and the *Sydney Electricity Act 1990* as a consequence of amendments made to those Acts by the proposed Act.

Schedule 1 Amendment of Electricity Commission Act 1950

Reconstitution of the Electricity Commission

The Electricity Commission is currently constituted by 6–8 commissioners appointed by the Governor. It is proposed to reconstitute the Commission as a statutory body representing the Crown under the name of Pacific Power, the business name under which it currently trades (**Schedule 1 (4), proposed section 5**).

Establishment of Board of directors

Pacific Power is to have a Board of 5–7 directors, including the Chief Executive, 3–5 part-time directors appointed by the Governor on the recommendation of the Minister and one part-time director chosen by a selection committee from a panel of Labor Council nominees (**Schedule 1 (4), proposed section 5A**). The Board will determine the policies and strategies for Pacific Power (**Schedule 1 (4), proposed section 5B**).

There are further provisions governing the constitution and procedure of the Board (**Schedule 1 (13), proposed Schedule 6**). In particular, the directors (aside from the Chief Executive) will be appointed for a term of 1 year at a time.

Appointment of Chief Executive

Pacific Power will have a Chief Executive (**Schedule 1 (4), proposed section 5C**), to be appointed under Part 2A of the *Public Sector Management Act 1988*, and provision for an acting Chief Executive (**Schedule 1 (4), proposed section 5D**). The Chief Executive will have the management and control of the affairs of Pacific Power (**Schedule 1 (4), proposed section 5E**).

Delegation

Pacific Power will be competent to delegate its functions (**Schedule 1 (4), proposed section 5F**).

Ministerial control

Pacific Power is to be subject to Ministerial direction (**Schedule 1 (6), proposed section 7**). In particular, the Board and the Chief Executive will be required to implement Ministerial directions concerning the structural reform of the electricity industry.

Savings and transitional provisions

There are savings and transitional provisions (**Schedule 1 (13), proposed Schedule 7**) that provide, among other things, for the continuation in office of the current Chairperson and establish the termination rights of those persons who will lose office under the reconstitution.

Other amendments

The remaining amendments made by Schedule 1 are consequential to the amendments referred to above.

Schedule 2 Amendment of Electricity Transmission Act 1994

Reconstitution of the Board of directors

The Board of the Electricity Transmission Authority currently comprises 7 directors. It is proposed to replace this board with a Board of 5–7 directors, including the Chief Executive, 3–5 part-time directors appointed by the Governor on the recommendation of the Minister and one part-time director chosen by a selection committee from a panel of Labor Council nominees (**Schedule 2 (6), proposed section 16 (2)**).

There are further provisions governing the constitution and procedure of the Board (**Schedule 2 (13), proposed Schedule 1**). In particular, the directors (aside from the Chief Executive) will be appointed for a term of 1 year at a time.

Ministerial control

The Authority is currently subject to Ministerial direction. It is proposed to insert an additional provision to require the Board and the Chief Executive to implement Ministerial directions concerning the structural reform of the electricity industry (**Schedule 2 (3), proposed section 5 (2A)**).

Development of a wholesale market for electricity

It is proposed to enable the Authority to develop, implement, operate and administer a wholesale market for electricity (**Schedule 2 (5), proposed section 6 (e1)**). This will involve the establishment of a Market Operations Fund (**Schedule 2 (11), proposed section 34A**) and a Market Settlements Fund (**Schedule 2 (11), proposed section 34B**).

Savings and transitional provisions

There are savings and transitional provisions (**Schedule 2 (16), proposed Schedule 2A**) that provide, among other things, for the continuation in office of the current Chairperson and establish the termination rights of those persons who will lose office under the reconstitution.

Other amendments

The remaining amendments made by Schedule 2 are consequential to the amendments referred to above.

Schedule 3 Amendment of Sydney Electricity Act 1990

Reconstitution of the Board of directors

Sydney Electricity is currently governed by a board of 10 directors. It is proposed to replace this board with a Board of 5–7 directors, including the Chief Executive, 3–5 part-time directors appointed by the Governor on the recommendation of the Minister and one part-time director chosen by a selection committee from a panel of Labor Council nominees (**Schedule 3 (3), proposed section 8**). The Board will determine the policies and strategies for Sydney Electricity (**Schedule 3 (3), proposed section 9**).

There are further provisions governing the constitution and procedure of the Board (**Schedule 3 (14), proposed Schedule 2**). In particular, the directors (aside from the Chief Executive) will be appointed for a term of 1 year at a time.

Ministerial control

Sydney Electricity is currently subject to Ministerial direction. It is proposed to insert an additional provision to require the Board and the Chief Executive to implement Ministerial directions concerning the structural reform of the electricity industry (**Schedule 3 (4), proposed section 10 (2A)**).

Alteration of electricity district

The area within which Sydney Electricity operates is described in Schedule 1 to the Act. It is proposed to enable that area to be varied by means of a proclamation made by the Governor (**Schedule 3 (13), proposed section 53A (1)**). It is proposed also to enable the Minister to direct the transfer of staff, assets, rights and liabilities to some other person or body (typically, an electricity distributor) consequent on the making of such a proclamation (**Schedule 3 (13), proposed section 53A (2)–(5)**). This will facilitate the amalgamation of parts of Sydney Electricity with adjacent electricity distributors.

Savings and transitional provisions

There are savings and transitional provisions (**Schedule 3 (18), proposed Part 3 of Schedule 5**) that provide, among other things, for the termination rights of those persons who will lose office under the reconstitution of the old Board and for the appointment of an administrator to exercise the functions of the new Board pending the appointment of its first members.

Other amendments

The remaining amendments made by Schedule 3 are consequential to the amendments referred to above.

Schedule 4 Amendment of Electricity Act 1945

Reconstitution of the boards of directors

Electricity distributors are currently governed by boards of up to 16 directors. It is proposed to replace these boards with boards of 5–7 directors, including the general manager or chief executive officer, as the case requires, 3–5 part-time directors appointed by the Governor on the recommendation of the Minister and one part-time director chosen by a selection committee from a panel of Labor Council nominees (**Schedule 4 (12), proposed section 6M**). A board will determine the policies and strategies for the electricity distributor for which it is appointed (**Schedule 4 (12), proposed section 6N**). It will be possible for several electricity distributors to be governed by a single board of directors. This will facilitate future amalgamations of electricity distributors.

There are further provisions governing the constitution and procedure of the boards of directors (**Schedule 4 (21), proposed Schedule 8**). In particular, the directors (aside from the general manager or chief executive officer) will be appointed for a term of 1 year at a time.

Ministerial control

Electricity distributors are currently subject to Ministerial direction. It is proposed to insert an additional provision to require the board of directors and the general manager and chief executive officer to implement Ministerial directions concerning the structural reform of the electricity industry (**Schedule 4 (9), proposed section 6 1 (2A)**).

Transfers of staff and assets

The Act currently provides for the creation, dissolution and variation of the areas of operations of electricity distributors. It is proposed to provide that this be done by means of a proclamation made by the Governor rather than, as is currently the case, by means of regulations (**Schedule 4 (5), proposed section 6A (1)**). It is proposed also to standardise the provisions regarding the transfer of staff, assets, rights and liabilities in cases where electricity distributors are dissolved or have their areas of operations reduced in size (**Schedule 4 (6), proposed section 6A (2)–(5)**) and to apply those provisions to Tenterfield Council, which currently exercises electricity supply functions (**Schedule 4 (7), proposed section 6B (5)–(7)**).

Appointment of chief executive officers

The Minister will be empowered to appoint a chief executive officer under Part 2A of the *Public Sector Management Act 1988* (**Schedule 4 (13), proposed section 60A**) for one or more electricity distributors. There will also be provision for the appointment of an acting chief executive officer (**Schedule 4 (13), proposed section 60B**). The chief executive officer will have the management and control of the affairs of each of the electricity distributors in connection with which he or she is appointed, to the exclusion of the general manager of any such electricity distributor (**Schedule 4 (13), proposed section 60C**).

Savings and transitional provisions

There are savings and transitional provisions (**Schedule 4 (23), proposed Part 5 of Schedule 11**) that provide, among other things, for the termination rights of those persons who will lose office under the reconstitution of the old boards and for the appointment of an administrator to exercise the functions of a new board pending the appointment of its first members. It will be possible for the same person to be appointed administrator of more than one electricity distributor. This will facilitate future amalgamations of electricity distributors.

Other amendments

The remaining amendments made by Schedule 4 are consequential to the amendments referred to above.

Schedule 5 Amendment of other Acts

This Schedule amends various Acts as a consequence of the amendments made by Schedules 1, 2, 3 and 4. The bulk of the amendments follow from the renaming of the Electricity Commission as Pacific Power.