

Act 1994 No. 82

**ENERGY LEGISLATION (MISCELLANEOUS AMENDMENTS)  
BILL 1994**

NEW SOUTH WALES



**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The objects of this Bill are:

- (a) to amend the Electricity Act 1945 in relation to the constitution of the Electricity Council, the functions of electricity distributors and other matters; and
- (b) to amend the Gas Act 1986 in relation to the supply of gas; and
- (c) to amend the Local Government Act 1993 in relation to the exercise of water supply functions by electricity distributors; and
- (d) to amend the Pipelines Act 1967 in relation to pipelines and pipeline licences; and
- (e) to amend the Sydney Electricity Act 1990 in relation to the functions of Sydney Electricity; and
- (f) to make minor or consequential amendments to those and other Acts and instruments.

**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the Schedule of amendments to the Electricity Act 1945.

**Clause 4** is a formal provision that gives effect to the Schedule of amendments to the Gas Act 1986.

**Clause 5** is a formal provision that gives effect to the Schedule of amendments to the Local Government Act 1993.

**Clause 6** is a formal provision that gives effect to the Schedule of amendments to the Pipelines Act 1967.

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**Clause 7** is a formal provision that gives effect to the Schedule of amendments to the Sydney Electricity Act 1990.

**Clause 8** is a formal provision that gives effect to the Schedule of minor or consequential amendments to other Acts and instruments.

### **SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945**

#### **Constitution of the Electricity Council**

The Electricity Council is currently constituted by 16 part-time members, of whom 14 hold office by virtue of holding particular offices or being the nominees of particular organisations and 2 are appointed by the Minister. It is proposed that the Council be reconstituted so as to consist of 16 part-time members appointed by the Minister, who are to include a nominee of the Labor Council and at least one nominee of the Electricity Association of New South Wales. See Schedule 1 (2) and (21).

#### **Pensioner rebates**

It is proposed to extend the pensioner rebate scheme under Part 3A of the Act to pensioners living in manufactured home estates and caravan parks. It is proposed also that subsidies for pensioner rebates be payable out of the Energy Administration Account established under section 35 of the Energy Administration Act 1987. Those subsidies are currently payable out of the Electricity Development Fund to which funds are transferred from the Energy Administration Account. The proposed amendment will avoid the need for the double transaction. See Schedule 1 (10), (11) and (20).

#### **Third party access to electricity distribution networks**

It is proposed that electricity distributors be required to ensure that access to their transmission systems and transmission network services is provided on a non-discriminatory basis. See Schedule 1 (4)—proposed section 6FA.

#### **Certification of electrical articles**

Certain electrical articles cannot currently be sold unless they are approved by the Director of the Office of Energy, approved or registered by an interstate public authority or certified by Standards Australia. It is proposed to recognise other private certifying bodies. See Schedule 1 (14), (15), (16) and (17).

#### **Water supply functions**

There are 3 electricity distributors which currently exercise water supply functions in addition to their electricity supply functions. Each was previously a county council exercising both electricity and water supply functions under the Local Government Act 1919. These functions were conferred on the electricity distributors, by means of a savings provision, when their predecessor county councils were abolished on 1 July 1993 by the Electricity (Amendment) Act 1993. It is proposed to restate their functions by means of substantive provisions. See Schedule 1 (4) (proposed section 6FB) and (22) (proposed Schedule 3). See also Schedule 3 (which amends the Local Government Act 1993) and Schedule 6 (which amends the Electricity (Savings, Transitional and Machinery Provisions) Regulation 1993).

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**Miscellaneous matters under the Electricity Act 1945**

The Bill proposes the following minor amendments:

- (a) an amendment to make it clear that notes included in the text of the Act do not form part of the Act (Schedule 1 (1));
- (b) an amendment to ensure that an electricity distributor may act as a “carrier” of electricity for other persons (Schedule 1 (3));
- (c) an amendment to keep the tendering provisions of the Act in line with those of the Local Government Act 1993 which has recently been amended in this regard by the Local Government Legislation (Miscellaneous Amendments) Act 1994 (Schedule 1 (5));
- (d) an amendment to provide that the Electoral Commissioner is the returning officer for certain elections under the Act (Schedule 1 (6));
- (e) an amendment to enable the Minister to extend the period within which notice must be given to the Energy Corporation of changes in an electricity supply authority’s pricing structures (Schedule 1 (8));
- (f) an amendment to extend the insurance provisions of the Act to persons and bodies, both within and beyond New South Wales, that exercise functions similar to those exercised by electricity supply authorities (Schedule 1 (9));
- (g) an amendment removing a reference to a fund that is no longer used (Schedule 1 (12));
- (h) amendments to confirm that certain approvals may be given generally as well as in particular cases (Schedule 1 (18) and (19));
- (i) amendments to effect minor statute law revision (Schedule 1 (7), (13) and (23));
- (j) amendments to enable the regulations to make provision of a savings or transitional nature consequent on the enactment of the proposed Act (Schedule 1 (24)).

**SCHEDULE 2—AMENDMENT OF GAS ACT 1986**

**Definition of “reticulation of gas”**

It is proposed to amend section 4 (which defines “reticulation of gas”) so as to make it clear that the definition extends to the transmission of gas on behalf of another person. See Schedule 2 (1).

**Exemptions from the Act**

It is proposed to provide that exemptions from the requirements of the Act be conferred by the regulations as well as by Governor’s order, as is currently the case, and that exemptions under the regulations be capable of being granted to any gas distributor rather than, as is currently the case with those granted by Governor’s order, gas distributors that are local authorities. See Schedule 2 (2).

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**Amendment of conditions relating to third party access**

It is proposed to allow the Minister to consider the effect of a proposed amendment of conditions relating to third party access to gas distribution systems on gas users generally rather than, as is currently the case, gas users who would be affected by the amendment. See Schedule 2 (3).

**SCHEDULE 3—AMENDMENT OF LOCAL GOVERNMENT ACT 1993**

It is proposed to insert a new Schedule 9 into the Act. The new Schedule will contain clauses that:

- (a) apply certain provisions of the Local Government Act 1993 to electricity supply authorities exercising water supply functions under proposed section 6FB of the Electricity Act 1945 (clause 1); and
- (b) modify those provisions in their application to electricity supply authorities exercising such functions (clauses 2–9); and
- (c) modify the provisions of the Electricity Act 1945 in their application to electricity supply authorities exercising such functions (clauses 11–19).

The Schedule will also allow the regulations to make further modifications to the provisions of each Act in their application to electricity supply authorities exercising such functions (clauses 10 and 20). See proposed Schedule 3 (14) and (15).

The remaining provisions will insert new notes, or amend existing notes, to draw attention to the effect of the new Schedule in relation to the provisions of the Local Government Act 1993. See Schedule 3 (1)–(13).

**SCHEDULE 4—AMENDMENT OF PIPELINES ACT 1967**

**Licensing of pipelines constructed under other laws**

It is proposed to make it clear that the operation of a pipeline whose construction is commenced or completed under an Act (other than the Pipelines Act 1967) or under a Commonwealth Act requires a licence under the Pipelines Act 1967 where that other Act ceases to apply to the pipeline (Schedule 4 (2)—proposed section 11 (2A)). It is proposed also to make provision for the procedures for licensing such a pipeline and to make provisions of a savings and transitional nature with respect to existing pipelines of that kind (Schedule 4 (3)–(9)).

**SCHEDULE 5—AMENDMENT OF SYDNEY ELECTRICITY ACT 1990**

**Definition of “supply”**

It is proposed to ensure that Sydney Electricity may act as a “carrier” of electricity for other persons in the same manner as is contemplated for electricity distributors in Schedule 1 (3). See Schedule 5 (1).

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**Third party access to electricity distribution networks**

It is proposed that electricity distributors be required to ensure that access to their transmission systems and transmission network services is provided on a non-discriminatory basis. See Schedule 5 (2)—proposed section 7A.

**SCHEDULE 6—CONSEQUENTIAL AMENDMENT OF OTHER ACTS AND INSTRUMENTS**

**Renaming of the Local Government Electricity Association of New South Wales**

It is proposed to amend the Local Government Associations Incorporation Act 1974 so as to rename the Local Government Electricity Association of New South Wales as the Electricity Association of New South Wales. This requires consequential amendments to the Energy Administration Act 1987 and various Acts relating to superannuation.

**Electricity distributors exercising water supply functions**

Consequential amendments to:

- (a) the Fish River Water Supply Administration Act 1945; and
- (b) the South-west Tablelands Water Supply Administration Act 1941; and
- (c) the Electricity (Savings, Transitional and Machinery Provisions) Regulation 1993,

are required as a result of the amendments made to the Electricity Act 1945 with respect to electricity distributors exercising water supply functions.

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