

Act No. 104

## ELECTRICITY DEVELOPMENT (AMENDMENT) BILL 1987

NEW SOUTH WALES



### EXPLANATORY NOTE

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

This Bill is cognate with the Energy Administration Bill 1987.

The object of this Bill is to amend the Electricity Development Act 1945 so as—

- (a) to change the name of that Act to the Electricity Act 1945;
- (b) to constitute the Electricity Council of New South Wales and Electricity Area Boards for rural electricity councils;
- (c) to enable, through the Industrial Development Assistance Fund, the acquisition of shares in the capital of the New South Wales Investment Corporation;
- (d) to require electricity councils to appoint general managers and assistant general managers;
- (e) to establish the Electricity Development Fund and the Industrial Development Assistance Fund; and
- (f) to make amendments consequential on the enactment of the proposed Energy Administration Act 1987 and the constitution of the Energy Corporation of New South Wales.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 specifies that the proposed Act will, with minor exceptions, commence on the commencement of the proposed Energy Administration Act 1987.

*Electricity Development (Amendment) 1987*

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Clause 3 provides that the Electricity Development Act 1945 is referred to as the Principal Act.

Clause 4 gives effect to the Schedules of amendments to the Principal Act.

Clause 5 gives effect to the Schedule amending the Public Finance and Audit Act 1983.

Clause 6 gives effect to the Schedule providing for the transfer of part of the area of Parramatta from the Sydney County District to the Prospect County District.

**SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE ELECTRICITY COUNCIL OF NEW SOUTH WALES, ELECTRICITY AREA BOARDS AND ELECTRICITY COUNCILS**

Schedule 1 (1) inserts definitions of “Electricity council” and “Electricity Council” into section 4 (Interpretation) of the Principal Act.

Schedule 1 (2) inserts proposed Parts II, IIA and IIB into the Principal Act.

Proposed Part II (Electricity Council of New South Wales) contains the following proposed sections:

Section 5 (Constitution of the Electricity Council) constitutes the Electricity Council of New South Wales.

Section 5A (Functions of the Electricity Council) sets out the functions of the Electricity Council, which mainly relate to giving advice and making reports and recommendations to the Minister.

Section 5B (Staff and facilities) enables the Electricity Council to use staff of the Corporation or the Department of Energy.

Section 5C (Committees) enables the Electricity Council to appoint committees.

Section 5D (Program and estimate) requires the Electricity Council to prepare annual financial estimates as well as a program.

Section 5E (Information) empowers the Council to obtain information from electricity supply authorities.

Proposed Part IIA (Electricity Area Boards) contains the following proposed sections:

Section 6 (Constitution of Area Boards) enables Electricity Area Boards to be constituted for specified electricity councils (other than the metropolitan councils).

Section 6A (Functions of an Area Board) sets out the functions of Area Boards.

Section 6B (Committees) enables Area Boards to appoint committees.

Section 6C (Costs of Area Boards) provides for the costs of each Area Board to be borne by its constituent electricity councils.

Proposed Part IIB (Electricity councils) contains the following proposed sections:

Section 7 (Electricity councils to be subject to Ministerial control) provides for electricity councils to be subject, in their electricity supply functions, to the control and direction of the Minister for Energy and Technology.

*Electricity Development (Amendment) 1987*

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Section 7A (Appointment of government representatives to electricity councils) enables the Minister to appoint 2 persons as delegates to any of the metropolitan electricity councils and 1 person as a delegate to any other electricity council.

Section 7B (Operations of electricity councils) sets out the duties of electricity councils in the exercise of their functions related to the supply of electricity. These include a duty to carry out their functions efficiently and economically.

Section 7C (Miscellaneous financial matters) contains miscellaneous financial provisions.

Section 7D (Contributions to the Electricity Development Fund and the Industrial Development Assistance Fund) provides for electricity councils to contribute, by way of loans to the Corporation, on certain conditions to the Electricity Development Fund and the Industrial Development Assistance Fund. Amounts may be paid to the councils from that Fund in accordance with those conditions.

Section 7E (Certain provisions of Local Government Act 1919 not to apply to electricity councils) excludes certain provisions of the Local Government Act 1919, and Ordinance No. 4 under that Act, to the extent to which they are inconsistent with the Principal Act from applying to electricity councils.

Section 7F (Sydney County Council) contains provisions constituting the Sydney County District and the Sydney County Council and giving the Council certain functions under the Local Government Act 1919.

Section 7G (Shortland County Council) deems to be omitted from the proclamation delegating functions to the Shortland County Council those functions contained in the Borough of Newcastle Electric Lighting Act (1892) consequent on the proposed repeal of that Act.

Section 7H (General managers of county councils) provides for the appointment of general managers by county councils that are electricity councils. The general manager will be the chief executive officer of the council and will be appointed for a term not exceeding 7 years at a time.

Section 7I (Assistant general managers of county councils) provides for the appointment of assistant general managers by county councils that are electricity councils.

Section 7J (Provisions relating to the employment of general managers and assistant general managers) gives effect to provisions relating to the employment of general managers and assistant general managers and the first appointments by councils of general managers and assistant general managers.

Section 7K (Functions of general managers) confers on the general manager of a council the council's functions relating to the employment, suspension and termination of the council's employees as well as all the other functions of the council except its reserved functions. The general manager will also—

- (a) be required to prepare financial estimates;
- (b) make contracts for and on behalf of the council; and

*Electricity Development (Amendment) 1987*

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(c) carry into effect all lawful orders of the council relating to its reserved functions.

Section 7L (Strategic plans and annual operating plans) requires the general manager to prepare and submit plans setting out the strategy for the council in carrying out its functions and for its annual operation.

Section 7M (General manager to provide information and advice) provides for the general manager to give advice and assistance to the council.

Section 7N (Functions relating to tenders) enables a general manager of a council to call for and accept tenders for contracts involving the expenditure of amounts not exceeding \$50,000, or such other amount as may be prescribed by or under the Principal Act or the Local Government Act 1919.

Section 7O (Functions relating to staff) gives the general manager of a council power to appoint, control and supervise the employees of the council.

Section 7P (Delegation of functions by general managers) provides for the delegation by the general manager of his or her functions.

Section 7Q (Reserved functions) sets out the reserved functions of a council. These include the making of a rate, the voting of money for expenditure, the acquisition of land and the acceptance of tenders of more than \$50,000. A duty is imposed on the general manager to advise and assist the council in relation to the reserved functions. Reserved functions may only be exercised by the council.

Section 7R (General manager to act by signed order) sets out a procedure for the doing of acts by the general manager which would ordinarily be required to be done by a resolution of a council.

Section 7S (Evidence of orders) provides for orders or copies of orders to be received by courts as evidence.

Section 7T (Attendance at meetings) gives the general manager of a council the right to attend and take part in, but not to vote at, meetings of the council. The general manager must attend a meeting of the council if required to do so by the council.

Section 7U (Legal proceedings) enables the general manager to act for and on behalf of the council in legal proceedings.

Schedule 1 (3) inserts into section 37 (Regulations) a power to make regulations with respect to the advertisement of vacancies for general managers and assistant general managers of councils and notification of their appointments.

Schedule 1 (4) inserts the following proposed Schedules into the Principal Act:

Schedule 1 contains provisions relating to the members of the Electricity Council of New South Wales.

Schedule 2 contains provisions relating to the procedure of the Electricity Council of New South Wales.

Schedule 3 contains provisions relating to the members of Electricity Area Boards.

Schedule 4 contains provisions relating to the procedure of Electricity Area Boards.

*Electricity Development (Amendment) 1987*

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Schedule 5 sets out the local government areas which constitute the Sydney County District.

Schedule 6 sets out the electoral constituencies, and the number of delegates for each constituency, of the Sydney County Council.

Schedule 7 contains provisions relating to the general managers and assistant general managers of county councils that are electricity councils.

**SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT**

Schedule 2 (1), (4), (5), (7), (8), (10), (19), (21), (24), (25), (27)–(41) and (47) amend the Principal Act as a consequence of the enactment of the proposed Energy Administration Act 1987 and the replacement of the Energy Authority of New South Wales with the Energy Corporation of New South Wales and the Department of Energy and make other minor amendments to the Principal Act.

Schedule 2 (2) amends section 1 (Short title and commencement) of the Principal Act to change the name of the Principal Act to the Electricity Act 1945.

Schedule 2 (3) amends section 4 (Interpretation) of the Principal Act by inserting definitions of "Corporation", "Council", "Director", "Electricity Development Fund" and "Industrial Development Assistance Fund" and omitting the definitions of "Authority" and "Electricity Development Account" and in other respects.

Schedule 2 (6) omits section 10 (Inquiries and investigations) of the Principal Act.

Schedule 2 (9) omits section 13 (Authority may grant subsidies) of the Principal Act.

Schedule 2 (11) amends section 13B (Electricity supply authority to notify Corporation of certain matters) of the Principal Act in relation to the notification of increased charges.

Schedule 2 (12) omits section 13C (Payment of subsidies for reductions in charges out of Electricity Development Account) of the Principal Act.

Schedule 2 (13) substitutes section 14 (Corporation may fix charges for bulk electricity etc.) of the Principal Act to enable the Corporation to fix charges for bulk electricity by directions to electricity councils.

Schedule 2 (14) substitutes section 14A (Application of Part to Electricity Commission) of the Principal Act which exempts the Commission from almost all of Part III of the Act.

Schedule 2 (15) amends section 14AAA (Corporation empowered to effect or arrange insurance policies on behalf of electricity supply authorities) of the Principal Act to enable the Corporation to arrange for electricity supply authorities to enter into insurance policies, in addition to its power to enter into such policies.

Schedule 2 (16)–(18) amend sections 14AAB–14AAD of the Principal Act as a consequence of the amendment made by Schedule 2 (15).

Schedule 2 (20) amends section 14C (Amount of rebate) of the Principal Act as a consequence of the enactment of the proposed Local Government (Electricity) Amendment Act 1987 and the proposed repeal of the Municipal Council of Sydney Electric Lighting Act 1896.

*Electricity Development (Amendment) 1987*

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Schedule 2 (22) amends section 14N (Application of Part IIIc) of the Principal Act as a consequence of an amendment made by Schedule 2 (3).

Schedule 2 (23) inserts proposed Part IV (Finance) into the Principal Act. The proposed Part contains the following proposed sections:

Section 15 (Electricity Development Fund) establishes the Electricity Development Fund.

Section 16 (Application of Electricity Development Fund) sets out the purposes for which the Fund may be applied.

Section 17 (Contributions to the State Energy Research and Development Fund) provides for contributions to be made to the State Energy Research and Development Fund from the Electricity Development Fund.

Section 18 (Agreements as to grants, subsidies etc.) enables the Corporation to require electricity supply authorities to enter into agreements relating to grants, loans and subsidies.

Section 19 (Industrial Development Assistance Fund) establishes the Industrial Development Assistance Fund.

Section 19AA (Application of Industrial Development Assistance Fund) sets out the purposes for which the Fund may be applied.

Section 19AB (Contributions by electricity councils and Commission) requires electricity councils and the Electricity Commission to make contributions under the proposed Act.

Schedule 2 (26) amends section 19C (Payments to Traffic Route Lighting Subsidy Account) of the Principal Act to require payments to be made to the Account by the Corporation (75 per cent) and the Commissioner for Main Roads (25 per cent).

Schedule 2 (43) inserts proposed Part VI (Restrictions on works, agreements and trading undertakings) into the Principal Act. The proposed Part contains the following proposed sections:

Section 27 (Restrictions on trading undertakings and supply of electricity) prohibits a council from carrying on certain trading and other activities without the permission of the Corporation.

Section 27A (Restriction on certain works) prohibits certain persons from erecting or extending power stations and transmission lines without the approval of the Corporation.

Section 27AB (Approvals) makes provision with respect to approvals given under the proposed Part.

Section 27AC (Offences) creates certain offences arising out of the prohibitions contained in the proposed Part.

Schedule 2 (44) amends section 27B (Offence to impose charges for the resupply of electricity in certain cases) of the Principal Act to require people (such as landlords) resupplying electricity to make and furnish records as to that resupply.

*Electricity Development (Amendment) 1987*

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Schedule 2 (45) omits section 28 (Certain provisions not to apply) of the Principal Act.

Schedule 2 (46) amends section 28A (Electricity supply authorities—personal liability of members etc.) to protect general managers, assistant general managers and persons acting under their direction from liability.

Schedule 2 (48) amends section 37 (Regulations) of the Principal Act to insert new powers to make regulations as to the policies or procedures with respect to customers of electricity councils, and other matters. A provision will also be inserted to ensure that regulations made under the Principal Act have effect despite the provisions of any inconsistent ordinance under the Local Government Act 1919.

**SCHEDULE 3—AMENDMENT TO THE PUBLIC FINANCE AND AUDIT ACT 1983**

This Schedule applies the provisions of the Public Finance and Audit Act 1983 to the county councils that are electricity councils having only electricity functions.

**SCHEDULE 4—PROVISIONS RELATING TO THE TRANSFER OF PART OF THE PARRAMATTA AREA**

This Schedule provides a mechanism for the transfer of part of the local government area of Parramatta from the Sydney County District to the Prospect County District.

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