

[Act 1997 No 36]



New South Wales

Electricity Supply Amendment Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*
This Bill is cognate with the *Appropriation Bill 1997*.

Overview of Bill

The object of this Bill is to amend the *Electricity Supply Act 1995*:

- (a) to impose an annual levy on electricity distributors from 1 July 1997, and
- (b) to increase the price of electricity payable by non-franchise customers of electricity distributors, and
- (c) to ensure that the increased price is not passed on to franchise customers by electricity distributors.

In general terms, franchise customers are smaller customers of electricity distributors, while non-franchise customers are larger customers.

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

For the purposes of this explanatory note, the expression “non-franchise customers” is to be read as including franchise customers who are determined to be non-franchise customers but whose determination has not yet come into effect. Correspondingly, the expression “franchise customers” is to be read as excluding these customers. This reflects the definition of *eligible customer* proposed to be inserted in the Dictionary by the proposed Act.

Outline of provisions

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

Clause 2 provides for the proposed Act to commence on the date of assent.

Clause 3 is a formal provision giving effect to the Schedule of amendments.

Schedule 1 [1] inserts a new Division into Part 3 of the Act.

Proposed section 32A contains definitions used in the new Division.

Proposed section 32B imposes a levy on each licensed electricity distributor in each financial year, based on profit from “network income”. That income is derived from the component of the price charged for electricity that is based on the use of the distributor’s network, but not the supply component of the price charged for electricity. The actual amount of the levy is as determined by the Governor on the recommendation of the Treasurer in accordance with the principles set out in the proposed section.

Proposed section 32C permits the amount of the levy to be varied in respect of the financial year to which it relates.

Proposed sections 32D and **32E** make provision for the levy in the case of persons who become licensees during a financial year or cease to be licensees during a financial year.

Proposed section 32F makes provision for the payment and recovery of the levy.

Proposed section 32G makes it a condition of an electricity distributor’s licence that the licensee has to comply with the obligations under the new Division. The proposed section also makes it clear that the new Division does not affect the provisions of the *Public Finance and Audit Act* 1983 relating to payment of dividends.

Schedule 1 [2] inserts a new Division into Part 4 of the Act.

Proposed section 43A contains definitions used in the new Division.

Proposed section 43B increases the price of electricity supplied to non-franchise customers by electricity distributors. The increase is 0.550 cents per kilowatt hour, and is applied to the network component of the price of electricity. The increase is factored into the determination made by the Independent Pricing and Regulatory Tribunal, and accordingly the increase has to be passed on to non-franchise customers by electricity distributors unless the Treasurer otherwise approves under the *Independent Pricing and Regulatory Tribunal Act 1992*. Provision is made to prevent the supply component of the price of electricity being reduced to offset the increase in the network component.

Proposed section 43C prevents the price of electricity supplied to franchise customers being increased so as to subsidise the increased price paid by non-franchise customers.

Proposed section 43D requires electricity distributors to furnish returns to the Treasurer.

Proposed section 43E makes it a condition of an electricity distributor's licence that the licensee has to comply with the obligations under the new Division. Proposed subsection (2) also makes it clear that the new Division applies to a non-franchise customer even if the customer is still being supplied electricity under a standard form contract. Proposed subsection (3) enables regulations to be made of a transitional nature, where it is not practicable to ascertain the amount of electricity used in the first period after the commencement of the proposed section. Proposed subsections (4)–(6) enable exemptions from the new Division to be made where appropriate. Proposed subsection (7) provides that the new Division does not provide grounds for customers to challenge electricity accounts.

Schedule 1 [3] amends section 87 so that conditions of licences imposed by proposed sections 32G and 43E are excluded from the monitoring role of the Licence Compliance Advisory Board.

Schedule 1 [4] inserts two new sections into the Act.

Proposed section 99A requires determinations to be made under the *Independent Pricing and Regulatory Tribunal Act 1992* as if the provisions relating to the levy and pricing of electricity under the proposed Act had not been made.

Proposed section 99B enables the Treasurer to enter into agreements with electricity distributors in connection with the levy and other matters as determined by the Treasurer.

Schedule 1 [5] amends the Dictionary in the Act to include definitions of expressions used in the provisions being inserted into the Act.