



New South Wales

Energy Services Corporations Amendment (Distributor Efficiency) Bill 2013

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Energy Services Corporations Act 1995* to improve the combined operational efficiency of energy distributors by providing for the appointment of a single board of directors that is to be the board of each of the energy distributors and is to act in the best interests of energy distributors as if they formed part of a combined operation.

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 a day or days to be appointed by proclamation.

Schedule 1 Amendment of Energy Services Corporations Act 1995 No 95

Schedule 1 [1] provides for the appointment of a single board of directors as the joint board of each of the energy distributors. The joint board is required to act in the best interests of all energy distributors as if they were a combined operation.

The amendment also varies the operation of section 20N of the *State Owned Corporations Act 1989* which provides for energy distributors to be reimbursed for the costs of complying with directions that are not in their commercial interests. An energy distributor will not be entitled to be reimbursed for the costs of complying with a direction that is not in its commercial interests if the direction is in the combined commercial interests of energy distributors. The amount an energy distributor will be entitled to be reimbursed for the costs of complying with a direction that is not in the combined commercial interests of energy distributors will be reduced by any net benefit accruing to any other energy distributor as a result of compliance with the direction.

Schedule 1 [2] and [3] make consequential procedural amendments to facilitate the appointment of a single board for energy distributors.

Schedule 1 [4] provides for the chief executive officer of an energy distributor to delegate functions to an employee of the energy distributor, subject to any directions of the joint board.

Schedule 1 [5] and [6] enact consequential savings and transitional provisions.

First print



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New South Wales

Energy Services Corporations Amendment (Distributor Efficiency) Bill 2013

No. , 2013

A Bill for

An Act to amend the *Energy Services Corporations Act 1995* to make further provision for the operational efficiency of energy distributors.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Energy Services Corporations Amendment (Distributor Efficiency) Act 2013</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6

Schedule 1	Amendment of Energy Services Corporations Act 1995 No 95	1
		2
[1] Sections 9A and 9B		3
Insert after section 9:		4
9A Joint board of energy distributors		5
(1) Each of the energy distributors is to have the same board of directors and for that purpose there is to be a single board (referred to in this Act as the <i>joint board</i> of the energy distributors) that is to constitute the board of directors of each of the energy distributors.		6 7 8 9 10
(2) The joint board is to act in the best interests of energy distributors as a combined operation (as if their individual businesses were being operated as parts of a single enterprise) even if acting in that way is not in the best interests of one or more individual energy distributors.		11 12 13 14 15
(3) A reference in this Act, the <i>State Owned Corporations Act 1989</i> or the constitution of an energy distributor to the voting shareholders is, in connection with the joint board of the energy distributors, a reference to the voting shareholders of all the energy distributors.		16 17 18 19 20
9B Directions affecting commercial interests of energy distributors		21
(1) An energy distributor is not entitled to be reimbursed under section 20N of the <i>State Owned Corporations Act 1989</i> in connection with compliance with a direction under that section that is not in the commercial interests of the energy distributor if the direction is in the combined commercial interests of energy distributors.		22 23 24 25 26 27
(2) If the direction is not in the combined commercial interests of energy distributors, any amount that the energy distributor is entitled to be reimbursed in connection with compliance with the direction is to be reduced by the amount of the net benefit accruing to any other energy distributor as a result of compliance with the direction.		28 29 30 31 32 33
(3) A direction is considered to be in the combined commercial interests of energy distributors if the joint board of the energy distributors considers that compliance with the direction would be in the commercial interests of a single enterprise that comprised the individual businesses of the energy distributors being operated as part of that single enterprise.		34 35 36 37 38 39

[2] Schedule 2 Supplementary provisions concerning constitution and procedure	1 2
Insert at the end of clause 1 (1):	3
Note. Under section 9A, each of the energy distributors has the same board (the <i>joint board</i> of the energy distributors).	4 5
[3] Schedule 2, clause 1 (2A)	6
Insert after clause 1 (2):	7
(2A) The membership of the joint board of the energy distributors is to be as provided by subclause (2) except that the chief executive officer of each energy distributor is to be a member of the joint board.	8 9 10 11
[4] Schedule 2, clause 2 (7)	12
Insert after clause 2 (6):	13
(7) The chief executive officer of an energy distributor may delegate any functions of the chief executive officer to an employee of the energy distributor, but this power is subject to any directions of the joint board of the energy distributors.	14 15 16 17
[5] Schedule 5 Savings, transitional and other provisions	18
Omit clause 1 (1). Insert instead:	19
(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.	20 21 22
[6] Schedule 5, Part 4	23
Insert at the end of the Schedule:	24
Part 4 Provisions consequent on enactment of the Energy Services Corporations Amendment (Distributor Efficiency) Act 2013	25 26 27 28
19 Membership of first joint board of energy distributors	29
On the commencement of section 9A:	30
(a) the members immediately before that commencement of the board of each of the energy distributors cease to hold office as such, and	31 32 33

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- (b) the persons holding office immediately before that commencement as members of the board of Ausgrid are taken to have been appointed as members of the first joint board of the energy distributors, and 1
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- (c) the person holding office immediately before that commencement as chairperson of the board of Ausgrid is taken to have been appointed as chairperson of the first joint board of the energy distributors. 5
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20 Actions of previous boards 9

Any act, matter or thing done or omitted to be done by the board of an energy distributor before the commencement of section 9A is taken to have been done or omitted by the joint board of the energy distributors. 10
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