



New South Wales

Transforming NSW Energy Sector (Towards 100 percent Renewables) Bill 2014

Explanatory note

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

Overview of Bill

The object of this Bill is to reduce the reliance of the State's energy sector on fossil fuel by facilitating movement towards an energy sector completely based on renewable energy sources, including:

- (a) by requiring the Government of New South Wales to take steps to develop renewable energy and energy efficiency measures that are sufficient to reduce the State's reliance on coal-fired and fossil gas-fired power stations, taking advice from an expert panel, and
- (b) by requiring the Government to stop providing fossil fuel subsidies to the fossil fuel industry and to re-direct those funds to renewable energy and energy efficiency measures, acting on the advice of the Independent Pricing and Regulatory Tribunal (*IPART*), and
- (c) by phasing out coal-fired and fossil gas-fired power stations by 2030, but guaranteeing ongoing employment of all workers at closed power stations, and
- (d) by preventing the expansion of the rest of the fossil fuel power industry.

Outline of provisions

Part 1 Preliminary

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 the date of assent to the proposed Act.

Clause 3 defines certain words and expressions used in the proposed Act and contains certain interpretation provisions.

Part 2 Planning for transformation of NSW energy sector

Clause 4 specifies the object of the proposed Act (as described in the Overview), which the Government is required to take into account in exercising planning and other functions under the proposed Act.

Clause 5 requires the Government to begin planning energy technologies involving renewable sources and energy efficiency measures within 1 month after the commencement of the proposed Act.

Clause 6 requires the Government to implement that plan. The technologies and measures involved must be such as to make it possible that at least one coal-fired generator with a capacity of at least 500 megawatts will no longer be required by 2017.

Clause 7 requires the Government to consider the object of the proposed Act, and the advice of the Expert Panel established under Part 3 of the proposed Act, when exercising planning and other functions under the proposed Act.

Part 3 Transforming NSW Energy Sector Expert Panel

Clause 8 requires the Minister to establish the Transforming NSW Energy Sector Expert Panel.

Clause 9 specifies the functions of the Expert Panel, which are to examine the full range of energy options permitted by law in New South Wales, provide advice to the Minister on that examination, provide advice on any other matter that the Minister requires and make periodic reports to the Minister.

Clause 10 lists the factors to be taken into account by the Expert Panel in exercising its recommendations.

Clause 11 requires the Expert Panel to periodically produce reports on increasing the electricity generation capacity of renewable energy technologies and on maximising energy efficiencies.

Clause 12 requires members of the Expert Panel to disclose pecuniary interests.

Part 4 Phased closure of all existing coal-fired and fossil gas-fired power stations

Clause 13 requires the Minister to prepare, before the first sitting week of 2015, a timetable for the closure of all existing coal-fired and fossil gas-fired power stations in New South Wales before 2030 and to table that timetable in Parliament. The Minister is also required to give Parliament undertakings guaranteeing the employment security of employees of coal-fired and fossil gas-fired power stations closed under the proposed Act.

Clause 14 requires the Government of New South Wales to make every effort reasonably possible to ensure that the timetable tabled under proposed section 13 is met, in particular, to ensure that all existing coal-fired and fossil gas-fired power stations in NSW are closed and decommissioned by 1 January 2030. The operator or former operator of a power station is not entitled to any compensation for any loss or damage suffered as a result of the operation of the proposed section.

Clause 15 prohibits the operation of any coal-fired and fossil gas-fired power station after 1 January 2030. The operator or former operator of a power station is not entitled to any compensation for any loss or damage suffered as a result of the operation of the proposed section.

Part 5 Ban on establishing or expanding fossil fuel power stations

Clause 16 prohibits the establishment or expansion of coal-fired power stations. The operator or former operator of a power station is not entitled to any compensation for any loss or damage suffered as a result of the operation of the proposed section.

Clause 17 prohibits the establishment of a fossil gas-fired power station with a capacity of 15 megawatts or greater, or the expansion of the capacity of existing fossil gas-fired power stations to 15 megawatts or greater. Any new fossil gas-fired power station must have a plan to transition to 100% renewable gas within 10 years.

Part 6 Removal of NSW government fossil fuel subsidies to coal and fossil gas operations

Clause 18 requires the Treasurer to refer to IPART certain matters relating to fossil fuel subsidies (that is, direct and indirect subsidies to the fossil fuel industry, including mining and combustion, that support electricity generation in New South Wales and that arise from the actions and policies of the Government of New South Wales).

Clause 19 requires the Treasurer to act on IPART's report.

Clause 20 requires the value of the fossil fuel subsidies saved by actions under the proposed Part to be re-directed for the purpose of facilitating development and expansion of the renewable energy and energy efficiency measures recommended by the Expert Panel under the proposed Act.

Part 7 Other steps towards 100 percent renewable energy

Clause 21 requires new guidelines to be prepared for the assessment and determination of planning proposals involving the establishment or expansion of wind farms.

Part 8 Miscellaneous

Clause 22 prohibits the disclosure of information acquired by reason of or in the course of the exercise of functions under the proposed Act.

Clause 23 protects members of the Expert Panel from personal liability.

Clause 24 provides that the proposed Act binds the Crown.

Clause 25 provides that proceedings for an offence under the proposed Act may be dealt with summarily before the Local Court or the Supreme Court.

Clause 26 enables the Governor to make regulations for the purposes of the proposed Act.

Schedule 1 Constitution and procedure of Expert Panel

Schedule 1 makes provision for the constitution and procedure of the Expert Panel established under the proposed Act.

Schedule 2 IPART investigation of fossil fuel subsidies

Schedule 2 makes provision for the investigation by IPART of a matter referred to it under Part 6 of the proposed Act.

Schedule 3 Amendment of Electricity Supply Act 1995 No 94

Schedule 3 provides for a feed-in tariff for all distributed renewable energy at a price set by IPART which approximates the relevant retail purchase price, allowing retailers to recover the unused Distribution Use of System charges from the distribution network service providers.



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Transforming NSW Energy Sector (Towards 100 percent Renewables) Bill 2014

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New South Wales

Transforming NSW Energy Sector (Towards 100 percent Renewables) Bill 2014

No. , 2014

A Bill for

An Act to require the NSW government to increase renewable energy generation and expand energy efficiency measures in NSW to allow for the replacement and closure of the State's coal and fossil gas-fired power stations by 2030 and create new employment opportunities in the electricity industry; and for other purposes.

The Legislature of New South Wales enacts:	1
Part 1 Preliminary	2
1 Name of Act	3
This Act is the <i>Transforming NSW Energy Sector (Towards 100 percent Renewables) Act 2014</i> .	4 5
2 Commencement	6
This Act commences on the date of assent to this Act.	7
3 Definitions	8
(1) In this Act:	9
development has the same meaning as in the EP&A Act.	10
EP&A Act means the <i>Environmental Planning and Assessment Act 1979</i> .	11
Expert Panel means the Transforming NSW Energy Sector Expert Panel established under section 8.	12 13
fossil fuel means:	14
(a) coal, oil, natural gas, coal seam gas or other petroleum-based products, or	15
(b) products, by-products and wastes associated with, or produced from, extracting and processing coal, oil, natural gas or other petroleum-based products.	16 17 18
fossil fuel subsidies means direct and indirect subsidies to the fossil fuel industry, including mining and combustion, that support electricity generation in New South Wales and that arise from the actions and policies of the Government of New South Wales, other than those that are by way of payments or other relief to support low income households.	19 20 21 22 23
IPART means the Independent Pricing and Regulatory Tribunal established under the <i>Independent Pricing and Regulatory Tribunal Act 1992</i> .	24 25
planning approval means any of the following:	26
(a) development consent under Part 4 of the EP&A Act,	27
(b) approval under Part 3A of the EP&A Act (before the repeal of that Part) for a concept plan for a project or approval under that Part to carry out a project,	28 29
(c) approval under Part 5.1 of the EP&A Act to carry out State significant infrastructure,	30 31
(d) the modification of any such development consent or approval.	32
renewable energy source means any of the following in so far as they are harnessed to generate energy:	33 34
(a) existing hydro or micro hydro,	35
(b) wave,	36
(c) tide,	37
(d) ocean,	38
(e) wind,	39
(f) solar,	40
(g) geothermal–aquifer,	41
(h) hot dry rock,	42
(i) energy crops (excluding native forest materials),	43

(j) wood waste (excluding native forest materials),	1
(k) agricultural waste,	2
(l) waste from processing of agricultural products,	3
(m) food waste,	4
(n) food processing waste,	5
(o) bagasse,	6
(p) black liquor,	7
(q) biomass-based components of sewage,	8
(r) landfill gas,	9
(s) sewage gas and biomass-based components of sewage,	10
(t) any other source specified by the regulations.	11
(2) Without affecting the operation of subsection (1), words and expressions used in this Act that are defined in the EP&A Act have the same meaning as in that Act.	12 13
(3) Notes included in this Act do not form part of this Act.	14

Part 2	Planning for transformation of NSW energy sector	1
4	Object of Act	2
	The object of this Act is to reduce the reliance of the State's energy sector on fossil fuel by facilitating movement towards an energy sector completely based on renewable energy sources, including:	3
	(a) by requiring the Government of New South Wales to take steps to develop renewable energy and energy efficiency measures that are sufficient to reduce the State's reliance on coal-fired and fossil gas-fired power stations, taking advice from an expert panel, and	4
	(b) by requiring the Government to stop providing subsidies to the fossil fuel industry and to re-direct those funds to renewable energy and energy efficiency measures, acting on the advice of IPART, and	5
	(c) by phasing out coal-fired and fossil gas-fired power stations by 2030, but guaranteeing ongoing employment of all workers at closed power stations, and	6
	(d) by preventing the expansion of the rest of the fossil fuel power industry.	7
5	Government required to plan for transformation of NSW energy sector	8
	The Government of New South Wales is required, within 1 month after the commencement of this Act, to implement measures to commence a process that will ultimately allow for the replacement of the State's coal-fired and fossil gas-fired power stations with renewable energy and energy efficiency measures.	9
6	Government required to implement plan for transformation of NSW energy sector	10
(1)	The Government of New South Wales is required to implement the process referred to in section 5 so that those energy technologies and energy efficiency measures make it possible for sufficient energy to be generated by renewable energy, or saved through energy efficiency measures, so that at least one coal-fired generator with a capacity of at least 500 megawatts, and a capacity factor of at least 73%, could be replaced by those sources, and decommissioned, by January 2017.	11
(2)	Subsection (1) applies only in relation to measures that the Government of New South Wales has the legal capacity to implement.	12
(3)	In this section:	13
	<i>capacity factor</i> of a power plant means the ratio of the maximum available output of the plant over a period of time to its potential output if it were possible for it to operate indefinitely at its intended technical full-load sustained output.	14
7	Government required to consider object of this Act and expert advice	15
	In preparing and implementing the process required by this Part, the Government of New South Wales must have regard to:	16
	(a) the object of this Act (as set out in section 4), and	17
	(b) any advice of the Expert Panel given under Part 3.	18

Part 3	Transforming NSW Energy Sector Expert Panel	1
8	Establishment of Transforming NSW Energy Sector Expert Panel	2
(1)	The Minister is to establish the Transforming NSW Energy Sector Expert Panel.	3
(2)	The Expert Panel is to comprise the following members:	4
(a)	at least 5 independent experts appointed by the Minister with expertise in energy planning, renewable energy and energy efficiency, one of whom is to be appointed by the Minister as Chairperson,	5 6 7
(b)	one person appointed by the Minister with expertise in finance,	8
(c)	one person nominated by and representing Unions NSW,	9
(d)	one person nominated by and representing the Council of Social Service of New South Wales,	10 11
(e)	one person nominated by and representing the Nature Conservation Council of NSW,	12 13
(f)	one person appointed by the Minister to represent a peak body representing the wind energy industry,	14 15
(g)	one person appointed by the Minister to represent a peak body representing the solar energy industry,	16 17
(h)	one person appointed by the Minister to represent a peak body representing the energy efficiency industry.	18 19
(3)	If, for the purposes of subsection (2) (c), (d) or (e), nominations of persons are not made within the time or in the manner specified by the Minister in a written notice given to the body or organisation entitled to make the nominations, the Minister is to appoint a person to be a member of the Expert Panel instead of the person required to be appointed as a nominee and that person so appointed is to be taken to have been duly nominated.	20 21 22 23 24 25
(4)	Schedule 1 contains provisions relating to the constitution and procedure of the Expert Panel.	26 27
9	Functions of Expert Panel	28
	The functions of the Expert Panel are as follows:	29
(a)	to examine the full range of energy options permitted by law, and defined by this Act as renewable energy sources in New South Wales, including, but not limited to, the following:	30 31 32
(i)	energy efficiency measures including higher appliance and building standards and technologies and policies to cut energy waste,	33 34
(ii)	wind energy generation,	35
(iii)	generation by large-scale solar thermal power plants,	36
(iv)	generation by solar photovoltaic means at an industrial, commercial and household level,	37 38
(v)	generation by wave power,	39
(b)	for the purpose of examining that full range of energy options, to undertake an investigation, as a matter of priority, into the construction of 3 or more large-scale concentrated solar thermal power plants,	40 41 42
(c)	to provide advice to the Minister on that examination,	43
(d)	to make periodic reports to the Minister under section 11,	44

(e)	to provide advice to the Minister on such other matters in connection with the operation of this Act as may be referred to the Expert Panel by the Minister.	1 2
10	Factors to be taken into account by Expert Panel	3
	In exercising its recommendation functions under this Act, the Expert Panel is to take into account the following factors:	4 5
(a)	the comparable cost-effectiveness of the different renewable energy technologies and energy efficiency measures that the Expert Panel considers,	6 7
(b)	the need to maximise the number of jobs in New South Wales and Australia in the manufacturing, operation and export of renewable energy and energy efficiency technologies,	8 9 10
(c)	the choice of mechanisms that secure employment for existing employees of the fossil fuel power industry in New South Wales,	11 12
(d)	the need to provide protection for low and middle-income households from rising electricity bills,	13 14
(e)	the provision of opportunities and support for low-income households and businesses to install and operate energy efficiency measures,	15 16
(f)	the ability and effectiveness of the borrowing mechanisms of the Government of New South Wales in the form of “Green Bonds”, which involve raising funds from investors seeking a fixed amount on a fixed schedule to finance the construction or rollout of renewable energy technologies and energy efficiency measures,	17 18 19 20 21
(g)	the possibility for the re-use and adaptation of decommissioned fossil fuel fired power station sites in hosting medium and large-scale renewable energy technologies to take advantage of existing network connections, site infrastructure and the local skilled workforce,	22 23 24 25
(h)	any available opportunities for the Government of New South Wales to support and facilitate community owned and community operated renewable energy projects,	26 27 28
(i)	the need to remove barriers that prevent private investment in renewable energy technologies,	29 30
(j)	the environmental, social and economic benefits of direct public investment in renewable energy projects,	31 32
(k)	any other factors that the Expert Panel determines are appropriate.	33
11	Expert Panel to report	34
(1)	The Expert Panel must provide the Minister with reports about the means by which the electricity generation capacity of renewable energy technologies and energy efficiencies must be increased in order to allow for the closure and decommissioning of all coal-fired power stations in the State by 1 January 2030.	35 36 37 38
(2)	At least one such report must be provided in each calendar year.	39
(3)	The first report must be provided on or before 1 January 2016.	40
12	Disclosure of pecuniary interests	41
(1)	If:	42
(a)	a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Expert Panel, and	43 44

- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter, 1
the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Expert Panel. 2
- (2) A disclosure by a member at a meeting of the Expert Panel that the member: 3
(a) is a member, or is in the employment, of a specified company or other body, or 4
(b) is a partner, or is in the employment, of a specified person, or 5
(c) has some other specified interest relating to a specified company or other body or to a specified person, 6
is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subsection (1). 7
- (3) Particulars of any disclosure made under this section must be recorded by the Expert Panel in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Expert Panel. 8
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Expert Panel otherwise determines: 9
(a) be present during any deliberation of the Expert Panel with respect to the matter, or 10
(b) take part in any decision of the Expert Panel with respect to the matter. 11
- (5) For the purposes of the making of a determination by the Expert Panel under subsection (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not: 12
(a) be present during any deliberation of the Expert Panel for the purpose of making the determination, or 13
(b) take part in the making by the Expert Panel of the determination. 14
- (6) A contravention of this section does not invalidate any decision of the Expert Panel. 15
- (7) This section applies to a member of a committee of the Expert Panel and the committee in the same way as it applies to a member of the Expert Panel and the Expert Panel. 16

Part 4	Phased closure of all existing coal-fired and fossil gas-fired power stations	1 2
13	Minister to table timetable and jobs guarantee for closure of coal-fired and fossil gas-fired power stations	3 4
(1)	Acting on the advice of the Expert Panel, the Minister is to draft and table in both Houses of Parliament a timetable for the closure of all coal-fired and fossil gas-fired power stations in New South Wales in a process that concludes by 1 January 2030.	5 6 7
(2)	The tabling is to occur no later than the first sitting week of each House of Parliament in 2015.	8 9
(3)	The timetable is to be accompanied by an undertaking of the Government of New South Wales to enact legislation to provide job guarantees for all displaced fossil fuel power station workers with employment:	10 11 12
(a)	on an equivalent pay scale, and	13
(b)	with an equivalent level of job security, and	14
(c)	with all benefits, including long service leave and superannuation preserved.	15
(4)	The deadline may be amended by resolution passed by both Houses of Parliament, if necessary to maintain essential power supplies.	16 17
14	Deadline for closure of all existing coal-fired and fossil gas-fired power stations	18
(1)	The Government of New South Wales must make every effort reasonably possible to ensure that the timetable tabled under section 13 is met.	19 20
(2)	In particular, the Government must make every effort reasonably possible to ensure that all existing coal-fired and fossil gas-fired power stations in New South Wales are closed and decommissioned before 1 January 2030.	21 22 23
(3)	The timetable, and deadline, may be amended by a resolution passed by both Houses of Parliament, being a resolution of which at least 30 days' notice has been given.	24 25
(4)	The operator or former operator of a power station is not entitled to any compensation for any loss or damage suffered as a result of the operation of this section.	26 27 28
15	Prohibition on operation of coal-fired and fossil gas-fired power stations from 2030	29
(1)	This section has effect on and from 1 January 2030.	30
(2)	A person must not operate a coal-fired or fossil gas-fired power station, or any part of a coal-fired or fossil gas-fired power station. Maximum penalty: 100,000 penalty units.	31 32 33
(3)	The operator or former operator of a power station is not entitled to any compensation for any loss or damage suffered as a result of the operation of this section.	34 35 36

Part 5	Ban on establishing or expanding fossil fuel power stations	1 2
16	Ban on establishing or expanding coal-fired power stations	3
(1)	The following development is prohibited:	4
(a)	the construction of a coal-fired power station,	5
(b)	the construction or use of an additional unit in a coal-fired power station operating as at the commencement of this Act,	6 7
(c)	any other development that expands or increases the level of operations or generating capacity of a coal-fired power station operating as at the commencement of this Act.	8 9 10
(2)	Planning approval cannot be given or granted for any development that is prohibited by this section.	11 12
(3)	Any planning approval that has been or is given or granted for any development that is prohibited by this section is revoked.	13 14
(4)	Without limiting subsection (3), the following planning approvals are revoked:	15
(a)	planning approvals for the construction, extension and operation of the Mount Piper Power Station,	16 17
(b)	planning approvals for the construction, extension and operation of Bayswater B Power Station.	18 19
(5)	The operator or former operator of a power station is not entitled to any compensation for any loss or damage suffered as a result of the operation of this section.	20 21 22
17	Ban on establishing or expanding fossil gas-fired power stations of 15 megawatts or greater	23 24
(1)	The following development is prohibited:	25
(a)	the construction or use of a fossil gas-fired power station with a capacity of 15 megawatts or greater,	26 27
(b)	the construction or use of an additional unit in a fossil gas-fired power station operating as at the commencement of this Act that would result in the station having a capacity of 15 megawatts or greater,	28 29 30
(c)	any other development that expands or increases the level of operations or generating capacity of a fossil gas-fired power station operating as at the commencement of this Act that would result in the station having a capacity of 15 megawatts or greater.	31 32 33 34
(2)	Planning approval cannot be given or granted for any development that is prohibited by this section.	35 36
(3)	Any planning approval that has been or is given or granted for any development that is prohibited by this section is revoked.	37 38
(4)	Any new gas-fired power station must have a plan to transition to 100% renewable gas within 10 years.	39 40
(5)	The operator or former operator of a power station is not entitled to any compensation for any loss or damage suffered as a result of the operation of this section.	41 42 43

Part 6	Removal of NSW government fossil fuel subsidies to coal and fossil gas operations	1
		2
18	Treasurer to refer matters relating to fossil fuel subsidies to IPART	3
(1)	The Treasurer is required to refer to IPART, for investigation and report, the following:	4
		5
(a)	the sources and magnitude of all fossil fuel subsidies,	6
(b)	changes to policies and actions that would bring those subsidies to an end,	7
(c)	the net benefit to the New South Wales budget of ending those subsidies,	8
(d)	any other related matter that the Treasurer considers appropriate.	9
(2)	If the Treasurer has given a reference to IPART under this Part, the Treasurer may amend the reference at any time before the Treasurer has received the report from IPART, but only in a manner that is consistent with subsection (1) (a)–(c).	10
		11
		12
(3)	Schedule 2 makes provision for IPART’s investigation and report.	13
19	Treasurer to act on IPART’s report	14
	The Treasurer and other relevant Ministers are to institute changes to policies and actions that IPART identifies would bring fossil fuel subsidies to an end in order that such subsidies cease no later than 6 months after the date of IPART’s report.	15
		16
		17
20	Redirection of fossil fuel subsidies	18
	The value of the fossil fuel subsidies saved by actions taken under this Part is to be re-directed for the purpose of facilitating the development and expansion of the renewable energy sources and energy efficiency measures recommended by the Expert Panel under Part 3.	19
		20
		21
		22

Part 7	Other steps towards 100 percent renewable energy	1
21	New guidelines on wind farms to be prepared and circulated	2
(1)	The Government of New South Wales is required to prepare guidelines for the assessment and determination of planning proposals involving the establishment or expansion of wind farms.	3 4 5
(2)	The guidelines are required to be based on science and to deal with matters that include the following:	6 7
(a)	buffer distances between existing residences and wind farms that are ten times the blades diameter, with the ability for the buffer to be waived as a result of negotiations with neighbours,	8 9 10
(b)	noise standards that reflect the <i>Wind farms environmental noise guidelines</i> prepared by the South Australian Environment Protection Authority, as in force at 1 January 2013.	11 12 13
(3)	The Government of New South Wales is required to publicly consult on the preparation of the guidelines.	14 15
(4)	The draft planning guidelines on wind farms circulated by the Government of New South Wales in December 2011 are not to be re-circulated in purported compliance with this section.	16 17 18

Part 8	Miscellaneous	1
22	Protection of information	2
(1)	This section applies to the following persons:	3
(a)	the Minister,	4
(b)	an employee of a Public Service agency,	5
(c)	a person who is or was a member of the Expert Panel.	6
(2)	A person to whom this section applies must not, directly or indirectly, except for the purposes of this Act or otherwise in connection with the exercise of the person's functions under this Act:	7
(a)	make a record of any information, acquired by the person by reason of, or in the course of, the exercise of the person's functions under this Act, or	8 9 10 11
(b)	divulge or communicate to any person any such information.	12
	Maximum penalty: 100 penalty units or imprisonment for 6 months, or both.	13
(3)	A person to whom this section applies cannot be required:	14
(a)	to produce to any person or body any document or other thing that has come into the person's possession, custody or control by reason of, or in the course of, the exercise of the person's functions under this Act, or	15 16 17
(b)	to divulge or communicate to any person or body any matter or thing that has come to the person's notice in the exercise of the person's functions under this Act.	18 19 20
(4)	Despite this section, a person to whom this section applies may divulge any such information:	21 22
(a)	for the purposes of and in accordance with this Act, or	23
(b)	for the purposes of a prosecution under this Act, or	24
(c)	in accordance with a direction of the Minister, if the Minister certifies that it is necessary to do so in the public interest, or	25 26
(d)	to any person or body prescribed by the regulations.	27
(5)	A person or body to whom information is divulged under subsection (4), and any person or employee under the control of that person or body, is subject to the same rights, privileges, obligations and liabilities under subsections (2) and (3) in respect of that information as if he or she were a person to whom this section applies and had acquired the information in the exercise of functions under this Act.	28 29 30 31 32
(6)	In this section:	33
	<i>body</i> includes any court, tribunal, authority or body having power to require the production of documents or the answering of questions.	34 35
	<i>produce</i> includes permit access to.	36
23	Protection from liability	37
	A matter or thing done or omitted to be done by a member of the Expert Panel does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act, subject the member personally to any action, liability, claim or demand.	38 39 40 41
24	Act binds Crown	42
	This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.	43 44

25	Nature of proceedings for offences	1
(1)	Proceedings for an offence under this Act may be dealt with summarily before the Local Court or the Supreme Court in its summary jurisdiction.	2 3
(2)	The maximum monetary penalty that may be imposed by the Local Court for an offence under this Act is 100 penalty units or the maximum monetary penalty provided for the offence (whichever is less).	4 5 6
26	Regulations	7
(1)	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	8 9 10 11
(2)	Without limiting subsection (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.	12 13 14
(3)	Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	15 16
(4)	To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:	17 18 19
(a)	to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	20 21 22
(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	23 24 25

Schedule 1	Constitution and procedure of Expert Panel	1
	(Section 8 (4))	2
Part 1	General	3
1	Definitions	4
	In this Schedule:	5
	<i>appointed member</i> means a person who is appointed by the Minister as a member of the Expert Panel.	6
		7
	<i>Chairperson</i> means the Chairperson of the Expert Panel.	8
	<i>Deputy Chairperson</i> means the Deputy Chairperson of the Expert Panel.	9
	<i>member</i> means any member of the Expert Panel.	10
	<i>representative member</i> means a person who is a member of the Expert Panel as a representative of a body.	11
		12
Part 2	Constitution	13
2	Terms of office of members	14
	Subject to this Schedule and the regulations, an appointed member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.	15
		16
		17
3	Part-time appointments	18
	Members hold office as part-time members.	19
4	Remuneration	20
	A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.	21
		22
		23
5	Deputies	24
(1)	A member may, from time to time, appoint a person to be the deputy of the member, and may revoke any such appointment.	25
		26
(2)	In the absence of a member, the member's deputy may, if available, act in the place of the member.	27
		28
(3)	While acting in the place of a member, a person has all the functions of the member and is taken to be a member.	29
		30
(4)	For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.	31
		32
(5)	This clause does not operate to confer on the deputy of a member who is the Chairperson or Deputy Chairperson the member's functions as Chairperson or Deputy Chairperson.	33
		34
		35
6	Vacancy in office of member	36
(1)	The office of a member becomes vacant if the member:	37
(a)	dies, or	38
(b)	completes a term of office and is not re-appointed, or	39

(c)	resigns the office by instrument in writing addressed to the Minister, or	1
(d)	is removed from office by the Minister under this clause, or	2
(e)	is absent from 3 consecutive meetings of the Expert Panel of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister for having been absent from those meetings, or	3 4 5 6
(f)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or	7 8 9
(g)	becomes a mentally incapacitated person, or	10
(h)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or	11 12 13 14
(i)	in the case of a representative member—is removed by the body that the member represents.	15 16
(2)	The Minister may remove an appointed member from office at any time.	17
7	Filling of vacancy in office of appointed member	18
	If the office of any appointed member becomes vacant, a person is, subject to this Act and the regulations, to be appointed to fill the vacancy.	19 20
8	Filling of vacancy in office of representative member	21
	If the office of any representative member becomes vacant, a person is, subject to this Act and the regulations, to be nominated by the body whom that member represents to fill the vacancy.	22 23 24
9	Chairperson and Deputy Chairperson	25
(1)	The Chairperson or Deputy Chairperson vacates office as Chairperson or Deputy Chairperson if he or she:	26 27
(a)	is removed from that office by the Minister under this clause, or	28
(b)	resigns that office by instrument in writing addressed to the Minister, or	29
(c)	ceases to be a member of the Expert Panel.	30
(2)	The Minister may at any time remove the Chairperson or Deputy Chairperson from office as Chairperson or Deputy Chairperson.	31 32
10	Effect of certain other Acts	33
(1)	The provisions of the <i>Government Sector Employment Act 2013</i> relating to the employment of Public Service employees do not apply to or in respect of the appointment of a member.	34 35 36
(2)	If by or under any Act, provision is made:	37
(a)	requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or	38 39
(b)	prohibiting the person from engaging in employment outside the duties of that office,	40 41
	the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.	42 43 44

Part 3	Procedure	1
11	General procedure	2
	The procedure for the calling of meetings of the Expert Panel and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Expert Panel.	3 4 5
12	Quorum	6
	The quorum for a meeting of the Expert Panel is a majority of its members for the time being.	7 8
13	Presiding member	9
(1)	The Chairperson (or, in the absence of the Chairperson, the Deputy Chairperson, or in the absence of both the Chairperson and the Deputy Chairperson, a person elected by the members of the Expert Panel who are present at a meeting of the Expert Panel) is to preside at a meeting of the Expert Panel.	10 11 12 13
(2)	The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	14 15
14	Voting	16
	A decision supported by a majority of the votes cast at a meeting of the Expert Panel at which a quorum is present is the decision of the Expert Panel.	17 18
15	Transaction of business outside meetings or by telephone	19
(1)	The Expert Panel may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Expert Panel for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Expert Panel.	20 21 22 23
(2)	The Expert Panel may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.	24 25 26 27
(3)	For the purposes of:	28
(a)	the approval of a resolution under subclause (1), or	29
(b)	a meeting held in accordance with subclause (2),	30
	the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Expert Panel.	31 32
(4)	A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Expert Panel.	33 34
(5)	Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.	35 36
16	First meeting	37
	The Minister may call the first meeting of the Expert Panel in such manner as the Minister thinks fit.	38 39

Schedule 2	IPART investigation of fossil fuel subsidies	1
	(Section 18 (3))	2
Part 1	Treasurer's referral	3
1	Treasurer's reference may impose certain requirements	4
(1)	The Treasurer's reference of matters to IPART may do any or all of the following:	5
(a)	specify a period within which IPART is required to submit a report to the Treasurer,	6 7
(b)	require IPART to consider specified matters when making its investigation,	8
(c)	require IPART to make a draft report available to the public, or to any specified persons or bodies, during the investigation.	9 10
(2)	IPART must act in accordance with any such requirement.	11
2	Public notice of Treasurer's reference	12
(1)	IPART is required to give notice of any investigation under this Part:	13
(a)	on its website, and	14
(b)	in a newspaper circulating in the State, and	15
(c)	in any other manner that it considers appropriate.	16
(2)	That notice is to include the terms of the reference by the Treasurer and any requirement made by the Treasurer under clause 1.	17 18
(3)	IPART is required, after considering any public comments on such terms of reference, to settle the final terms of reference in the matter in consultation with the Treasurer.	19 20 21
Part 2	Investigation and report by IPART	22
3	IPART to investigate and report	23
(1)	IPART is to conduct an investigation and report to the Treasurer in accordance with this Part.	24 25
(2)	IPART may also report to the Treasurer on any matter it considers relevant that arises from an investigation under this Part. Any such report may be part of the principal report to the Treasurer or may be a separate report.	26 27 28
(3)	A report is to include any minority report by a member of IPART who wishes to make such a report.	29 30
4	IPART's report to be made public	31
(1)	As soon as practicable after the Treasurer receives a report from IPART under this Part, the Treasurer is to arrange:	32 33
(a)	for the report to be included on the website of the Government of New South Wales and of IPART, and	34 35
(b)	for the report to be tabled in each House of Parliament within 5 sitting days of the House, and	36 37
(c)	for copies of the report to be made available for public inspection at the office of IPART during its ordinary business hours.	38 39

- (2) However, the Treasurer is not required to release any part of the report that, in the opinion of the Treasurer or IPART, contains confidential information. 1
2

Part 3 Conduct of IPART's investigation 3

5 Powers of IPART and conduct of investigations 4

- (1) In an investigation, IPART: 5
- (a) is to act with as little formality as possible, and 6
 - (b) may inform itself on any matter in any way it thinks fit and is not bound by the rules of evidence, and 7
8
 - (c) may receive information or submissions in the form of oral or written statements, and 9
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 - (d) may consult with such persons as it thinks fit. 11
- (2) IPART may, but is not required to, hold hearings or public seminars, conduct workshops and establish working groups and task forces for the purposes of an investigation. 12
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- (3) IPART must consult with standard retail suppliers in an investigation. 15
- (4) If IPART holds hearings, it must give reasonable notice, by advertisement published in a newspaper circulating in the State, of the hearings. 16
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- (5) IPART may call for written submissions and may specify a time and date by which those submissions must be made. IPART may extend the time for the making of submissions. 18
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- (6) A hearing may be held in public or in private, at the discretion of IPART, and may be conducted as determined by IPART. 21
22

6 Provision of information, documents and evidence 23

- (1) For the purposes of an investigation and report, the Chairperson of IPART may, by notice in writing served on an officer of a standard retail supplier or any other person, direct the officer or person to do any one or more of the following: 24
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26
- (a) to send to IPART, on or before a day specified in the notice, a statement setting out such information as is so specified, 27
28
 - (b) to send to IPART, on or before a day specified in the notice, such documents as are so specified, 29
30
 - (c) to attend a meeting or hearing of IPART to give evidence. 31
- (2) If documents are given to IPART under this clause, IPART: 32
- (a) may take possession of, and make copies of or take extracts from, the documents, and 33
34
 - (b) may keep possession of the documents for such period as is necessary for the purposes of the investigation to which they relate, and 35
36
 - (c) during that period must permit them to be inspected at all reasonable times by persons who would be entitled to inspect them if they were not in the possession of IPART. 37
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- (3) A person must not contravene a direction given under subclause (1). 40
Maximum penalty: 100 penalty units or imprisonment for 6 months, or both. 41

7 Confidential information	1
(1) If a person provides information (<i>protected information</i>) to IPART for the purposes of an investigation on the understanding that the information is confidential and will not be divulged, IPART is required to ensure that the information is not divulged by it to any person, except:	2
(a) with the consent of the person who provided the information, or	3
(b) to the extent that IPART is satisfied that the information is not confidential in nature, or	4
(c) to a member or officer of IPART.	5
(2) If IPART is satisfied that protected information provided to IPART by a person needs to be divulged for the purposes of its report, and the exceptions in subclause (1) (a)–(c) are not applicable, IPART may notify the person that IPART proposes to divulge the information in its report after a specified period.	6
(3) After the specified period, and despite subclause (1), IPART may divulge the information in its report.	7
(4) If IPART is satisfied that it is desirable to do so because of the confidential nature of any information provided to it in connection with its functions under this Part, it may give directions prohibiting or restricting the divulging of the information.	8
(5) A person must not contravene a direction given under subclause (4). Maximum penalty: 100 penalty units or imprisonment for 6 months, or both.	9
(6) A reference in this clause to information includes information given at a meeting or hearing of IPART and information contained in any documents given to IPART.	10
8 Offences	11
(1) A person must not, without reasonable excuse:	12
(a) refuse or fail to comply with a notice served under this Part, or	13
(b) refuse or fail to answer a question that the person is required to answer by the Chairperson of IPART at any meeting or hearing before IPART under this Part.	14
(2) It is a reasonable excuse for the purposes of subclause (1) that to comply with the notice or to answer the question might tend to incriminate a natural person or make the person liable to any forfeiture or penalty.	15
(3) A person must not:	16
(a) give to IPART, whether orally or in writing, information that the person knows to be false or misleading in a material particular (unless the person informs IPART of that fact), or	17
(b) at a meeting of or hearing before IPART, give evidence that the person knows to be false or misleading in a material particular.	18
(4) A person must not hinder, obstruct or interfere with the Chairperson or any other member of IPART in the exercise of functions for the purposes of this Part as Chairperson or other member.	19
(5) A person must not take any action that detrimentally affects the employment of another person, or threaten to do so, because that other person has assisted IPART in any investigation. Maximum penalty: 100 penalty units or imprisonment for 6 months, or both.	20

9 Cabinet information and proceedings	1
(1) This Part does not enable IPART:	2
(a) to require any person to give any statement of information or answer any question that relates to confidential proceedings of Cabinet, or	3
(b) to require any person to disclose Cabinet information, or	4
(c) to inspect Cabinet information.	5
(2) For the purposes of this clause, a certificate of the Secretary or General Counsel of the Department of Premier and Cabinet that:	6
(a) any information or question relates to confidential proceedings of Cabinet, or	7
(b) information is Cabinet information,	8
is conclusive of that fact.	9
(3) In this clause:	10
Cabinet includes a committee of Cabinet or a subcommittee of such a committee.	11
Cabinet information means information that is Cabinet information under the <i>Government Information (Public Access) Act 2009</i> .	12
	13
	14
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Schedule 3 Amendment of Electricity Supply Act 1995 No 94 1

[1] Section 15B 2

Insert after section 15A: 3

**15B Distribution network service providers to allow small renewable energy
generators to feed-in to network (persons not part of closed scheme)** 4
5

(1) The objects of this section are as follows: 6

(a) to encourage and support persons who want to generate renewable
energy as a response to climate change, 7
8

(b) to develop jobs in the renewable energy sector by assisting renewable
energy generation to compete with non-renewable energy generation, 9
10

(c) to increase public exposure to renewable energy technology in order to
encourage the whole community to respond to climate change. 11
12

(2) For the purposes of this section a generator is a *complying generator* if the
generator: 13
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(a) is a solar photovoltaic generator, a wind turbine, or a renewable energy
generator of a class prescribed by the regulations, that has a generating
capacity of no more than 10 kilowatts, and 15
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(b) is installed and connected to the distribution network in a manner that
provides for all the electricity generated by the generator to be supplied
to the distribution network and allows the relevant distribution network
service provider to measure at any instant the amount of electricity
supplied, and 18
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(c) complies with, and is installed and connected in a manner that complies
with, any safety, technical or metering requirements that may be
prescribed by the regulations or market operations rules. 23
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(3) This section does not apply to a regulated offer customer who, under
section 15A, receives, or is eligible to receive, a credit against charges
payable. 26
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(4) A distribution network service provider must, on application by or on behalf
of a regulated offer customer, provide customer connection services so as to
connect, or permit to be connected, to its distribution network a complying
generator if: 29
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(a) the generator is to be installed at premises that are in the distribution
network service provider's distribution district, and 33
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(b) the regulated offer customer has a right under the *National Energy
Retail Law (NSW)* to be provided with customer connection services at
those premises. 35
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(5) The right that a person has under this section to have premises provided with
customer connection services is subject to any provision of the *National
Energy Retail Law (NSW)*, any instrument made under that Law, this Act or
the regulations that authorises the disconnection of those premises from, or the
refusal to connect those premises to, a distribution system. 38
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- (6) A distribution network service provider must record a credit against charges payable at the amount of \$0.20 (or such other amount as may be prescribed by the regulations) per kilowatt hour in respect of a regulated offer customer for electricity that:
- (a) is produced by a complying generator installed and connected at the premises of the regulated offer customer, and
 - (b) is supplied to the distribution network by the regulated offer customer.
- (7) The credit recorded under subsection (6) by a distribution network service provider against charges payable is to be reduced by the amount determined by the Tribunal under Division 5 of Part 4 (having regard the need to approximate the relevant retail purchase price) as the retailer benefit component for the supply of electricity as referred to in subsection (6).
- (8) A distribution network service provider must, in accordance with the regulations, provide a retailer with:
- (a) details of the amount of credit that has been recorded under this section for electricity supplied to the network by each regulated offer customer of the retailer, and
 - (b) such other information as may be required to be supplied by the regulations or the market operations rules.
- (9) A distribution network service provider must provide to the Minister and the Director-General the following information at such times as may be prescribed by the regulations:
- (a) the total number of regulated offer customers in the distribution network service provider's distribution district who have installed and connected a complying generator, and
 - (b) the postcodes of those regulated offer customers, and
 - (c) the total generating capacity of all such generators in the distribution district, and
 - (d) such information as is available to the distribution network service provider about the amount of electricity supplied to the distribution network by complying generators in the distribution network service provider's distribution district during such periods as may be prescribed by the regulations, and
 - (e) any other matter that may be prescribed by the regulations.
- (10) It is a condition of a distribution network service provider's licence that the distribution network service provider must not contravene this section.
- (11) The Director-General or a distribution network service provider may, at any time, require a person to provide information by statutory declaration in order to determine the person's eligibility to have a credit recorded in respect of the person under this section.
- (12) A person must within 7 days after any change in the person's circumstances (including any change to a generator on premises owned or occupied by the person) notify a distribution network service provider of that change if the change may cause the person to be no longer eligible to have a credit recorded (or to have a credit recorded at a particular rate) by the provider in respect of the person under this section.
- Maximum penalty: 50 penalty units.

(13)	A distribution network service provider is not to record a credit under this section, and a retailer is not to pay an amount under subsection (15), in respect of electricity produced by a generator that is first connected to the distribution network on or after the date specified in a notice under this section.	1 2 3 4
(14)	The regulations may contain provisions of a savings or transitional nature consequent on the making of a regulation under this section.	5 6
(15)	A retailer must, in accordance with the regulations (if any):	7
	(a) pay a regulated offer customer an amount consisting of the amount of any credit recorded under this section for any electricity supplied by the customer together with the amount of the retailer benefit component for the supply of that electricity (as determined by the Tribunal under Division 5 of Part 4), or	8 9 10 11 12
	(b) reduce an amount payable by the regulated offer customer by an amount equal to the amount payable under paragraph (a).	13 14
	Maximum penalty: 1,000 penalty units.	15
[2]	Section 43EJ Division to cease to have effect	16
	Omit the section.	17