

[Act 1995 No 94]



Electricity Supply Bill 1995

Explanatory note

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

The following Bills are cognate with this Bill:

Energy Services Corporations Bill 1995

Sustainable Energy Development Bill 1995.

Overview of Bill

The objects of this Bill are:

- (a) to establish a competitive wholesale and retail market in electricity so as to promote efficient and environmentally responsible production and use of electricity and to deliver a safe and reliable supply of electricity, and
- (b) to regulate network operations and wholesale trading in the wholesale market for electricity in anticipation of the introduction of a national electricity market, and

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

- (c) to regulate network operations and electricity supply in the retail market in a manner that ensures open access to electricity distribution systems, promotes customer choice and creates customer rights in relation to electricity connections and electricity supply.

The Bill also amends various other Acts and instruments and contains provisions of a savings and transitional nature.

Outline of provisions

Part 1 Preliminary

This Part contains provisions for the name of the proposed Act, the commencement of the proposed Act, the objects of the proposed Act, the definition of words and expressions used in the proposed Act and the status of the Crown (clauses 1–5).

Part 2 Network operations and wholesale trading in the wholesale market

This Part deals with the wholesale market for electricity, regulating network operations (that is, the operation of transmission and distribution systems that convey electricity from where it is generated to where it is used) and wholesale trading (that is, the buying and selling of electricity in bulk). The provisions of the proposed Act anticipate a national regime to which it is intended that the State will eventually become a party. The principal characteristics of the regime involve the separation of network operations from wholesale trading, so as to promote competition, and the involvement of a Market and System Operator to co-ordinate both network operations and wholesale trading, so as to promote a safe and reliable electricity supply system.

Division 1 Network operations

This Division prohibits the operation of a transmission or distribution system for wholesale trading by persons who do not hold appropriate authorisations (clause 6), provides for the granting of network operators' authorisations (clause 7 and Schedule 1) and imposes conditions on such authorisations in relation to the persons for whom electricity may be conveyed (clause 8) and compliance with the Market and System Operator's rules, procedures and conditions of wholesale market operation (clause 9).

Division 2 Wholesale trading

This Division provides for the granting of wholesale traders' authorisations (clause 10 and Schedule 1) and imposes conditions on such authorisations in relation to the prohibition of discriminatory policies in connection with the supply of electricity (clause 11) and compliance with the Market and System Operator's rules, procedures and conditions of wholesale market operation (clause 12).

Part 3 Network operations in the retail market

This Part regulates network operations (that is, the operation of transmission and distribution systems that convey electricity from where it is generated to where it is used) in the retail market for electricity. As with the wholesale market, these operations are to be kept separate from electricity supply operations, so as to promote competition.

Division 1 Network operations

This Division prohibits the operation of a transmission or distribution system for retail supply by persons who do not hold appropriate licences (clause 13), provides for the granting of network operators' licences (clause 14 and Schedule 2) and imposes conditions on such licences in relation to rights to connection (clause 15), the persons for whom electricity may be conveyed (clause 16), the holding of retail suppliers' licences by electricity distributors (clause 17) and the requirement for customer connection contracts (clause 18).

Division 2 Standard form customer connection contracts

This Division establishes the procedure for preparing standard form customer connection contracts (clause 19), provides for the matters for which such contracts must provide (clause 20), specifies the effect of such contracts (clause 21) and provides for their amendment (clause 22).

Division 3 Negotiated customer connection contracts

This Division provides for negotiated customer connection contracts for customers who opt out of the standard form of contract (clause 23).

Division 4 Requirements relating to customer connection services

This Division gives electricity distributors the power to impose requirements on customers in relation to the provision of customer connection services. In particular, it enables an electricity distributor to refuse to provide such services if those requirements are not complied with (clause 24). The requirements may relate to contributions towards the augmentation of the electricity distributor's distribution system (clause 25), the provision of service lines (clause 26), service equipment (clause 27), transformers (clause 28) and electricity meters (clause 29), the installation and use of apparatus (clause 30), customer choice in the provision of goods and services (clause 31) and the sealing of electrical installations (clause 32).

Part 4 Electricity supply in the retail market

This Part regulates the supply of electricity in the retail market for electricity. As with the wholesale market, operations relating to retail supply are to be kept separate from network operations, so as to promote competition.

Division 1 Electricity supply

This Division provides for the granting of retail suppliers' licences (clause 33 and Schedule 2) and imposes conditions on such licences in relation to rights to supply (clause 34), the prohibition of discriminatory policies in connection with the supply of electricity (clause 33, the supply of electricity to franchise customers (clause 36), the supply of electricity to non-franchise customers (clause 37) and the requirement for customer supply contracts (clause 38).

Division 2 Standard form customer supply contracts

This Division establishes the procedure for preparing standard form customer supply contracts (clause 39), provides for the matters for which such contracts must provide (clause 40), specifies the effect of such contracts (clause 41) and provides for their amendment (clause 42).

Division 3 Negotiated customer supply contracts

This Division provides for negotiated customer supply contracts for non-franchise customers and for franchise customers who opt out of the standard form of contract (clause 43).

Part 5 Powers and duties of network operators generally

This Part deals with the powers and duties of network operators in connection with the installation, operation and maintenance of their transmission and distribution systems.

Division 1 Acquisition of land

This Division empowers a network operator to acquire land in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (clause 44).

Division 2 Powers and duties relating to electricity works

This Division empowers network operators to carry out certain works in connection with their transmission and distribution systems (clause 45), requires them to make good any damage they cause in so doing (clause 46), empowers them to move conduits (clause 47), trim and remove trees (clause 48) and remove obstructions (clause 49), exempts them from payments of charges in relation to electricity works situated in public roads or public reserves (clause 50), ensures that they retain ownership over their electricity works, wherever situated (clause 51), allows them to interrupt the supply of electricity for maintenance purposes (clause 52) and exempts them from liability for failures in electricity supply due to mechanical breakdowns or uncontrollable causes (clause 53).

Division 3 Powers of entry

This Division sets out the powers and duties of network operators in relation to entry to private land. The Division confers a power of entry in certain circumstances (clause 54), requires notice to be given (clause 53), allows the use of force in specified situations (clause 56), requires the use of force or urgent entry to be reported (clause 57), requires care to be taken (clause 58), provides for the recovery of the costs of entry in certain circumstances (clause 59), provides for the payment of compensation (clause 60), requires possession of an appropriate certificate of authority (clause 61), regulates entry onto residential premises (clause 62) and provides for warrants of entry (clause 63).

Part 6 Offences

Division 1 General offences

This Division creates offences with respect to theft of electricity (clause 64), interference with electricity works (clause 65) interference with electricity meters (clause 66) interference with electricity distributors' seals (clause 67), unauthorised connections (clause 68), unauthorised increase in capacity of connections (clause 69), unauthorised alterations and additions to electrical installations (clause 70) and obstruction of authorised officers (clause 71).

Division 2 Restrictions on resupply of electricity

This Division prohibits the reselling of electricity, with an exception for landlords who merely pass on electricity charges to their tenants (clause 72).

Division 3 Supplementary orders

This Division empowers a Local Court to order disconnection and discontinuance of electricity supply (clause 73), to order payment for electricity unlawfully charged for (clause 74) and to order payment for stolen electricity (clause 75) and provides that any such order may be enforced as a civil debt (clause 76).

Part 7 Administration

Division 1 The Market and System Operator

This Division provides for the appointment of 'a Market and System Operator to co-ordinate the wholesale market for electricity (clause 77). Initially, TransGrid will be the Market and System Operator. The Division also sets out the principal functions of the Market and System Operator (clause 78), empowers the Market and System Operator to impose fees (clause 79) and establishes a System Control Fund (clause 80), a Market Operations Fund (clause 81) and a Market Settlements Fund (clause 82).

Division 2 Distribution districts

This Division establishes distribution districts for certain electricity distributors (clause 83 and Schedule 3), provides for their variation (clause 84) and provides for the transfer of staff, assets, rights and liabilities as a consequence of any such variation (clause 85 and Schedule 4).

Division 3 Customer consultative groups

This Division provides for the appointment of customer consultative groups for electricity distributors (clause 86), provides for their constitution and procedure (clause 87) and sets out their functions, which are to be to provide advice and information to their parent electricity distributor in connection with customer connection services and electricity supply (clause 88).

Division 4 General

This Division enables the Minister to declare certain persons to be non-franchise customers (clause 89), and certain electricity works to be transmission systems (clause 90), by means of orders published in the Gazette, and empowers network operators to appoint authorised officers for the purpose of exercising various functions (including powers of entry) under the proposed Act (clause 91).

Part 8 Appeals and resolution of disputes

This Part confers a right of appeal in relation to decisions under Schedules 1 and 2 in relation to authorisations and licences (clause 92), confers a right of appeal on customers against certain decisions of electricity distributors and retail suppliers (clause 93) and provides a mechanism for resolving disputes between public authorities (clause 94).

Part 9 Miscellaneous

This Part contains the following provisions:

- (a) a provision making unauthorised electricity supply arrangements unenforceable (clause 93),
- (b) a provision to the effect that customer connection contracts and customer supply contracts may form one document (clause 96),
- (c) a provision authorising the delegation of the Minister's functions under the proposed Act (clause 97),
- (d) a provision making directors and managers liable for offences committed by corporations (clause 98),
- (e) a provision with respect to proceedings for offences (clause 99),
- (f) a provision with respect to the recovery of monetary penalties imposed under Schedule 1 or 2 (clause 100),
- (g) a provision with respect to the recovery of charges by network operators and wholesale or retail suppliers (clause 101),

- (h) a provision with respect to the application of the proposed Act outside local government areas (clause 102),
- (i) a provision authorising the making of regulations (clause 103),
- (j) a provision repealing certain Acts and instruments (clause 104),
- (k) a provision giving effect to Schedule 5, which contains amendments to various Acts and instruments (clause 105),
- (l) a provision giving effect to Schedule 6, which contains savings and transitional provisions (clause 106),
- (m) a provision requiring the proposed Act to be reviewed at the end of 5 years (clause 107).

Schedules

Schedule 1 provides for the granting of authorisations, the imposition of conditions on authorisations, the variation of those conditions and the cancelling of authorisations. The Schedule also enables a civil penalty of up to \$100,000 to be imposed on the holder of an authorisation in relation to any contravention of the proposed Act or the regulations or the conditions of the authorisation.

Schedule 2 provides for the granting of licences, the imposition of conditions on licences, the variation of those conditions and the cancelling of licences. The Schedule also enables a civil penalty of up to \$100,000 to be imposed on the holder of a licence in relation to any contravention of the proposed Act or the regulations or the conditions of the licence.

Schedule 3 describes the distribution districts of various electricity distributors.

Schedule 4 provides for the transfer of staff, assets, rights and liabilities consequent on the variation of the boundaries of an electricity distributor's distribution district.

Schedule 5 amends the following Acts and instruments:

Electricity Act 1945 (1946 No 13)

Electricity (Pacific Power) Act 1950 No 22

Electricity Transmission Authority Act 1994 No 64

Energy Administration Act 1987 No 103

Fish River Water Supply Administration Act 1945 No 16

Electricity Supply Bill 1995 [Act 1995 No 94]

Explanatory note

Land Tax Management Act 1956 No 26

Local Government Act 1919 No 41

Local Government Act 1993 No 30

Roads (General) Regulation 1994

Search Warrants Act 1985 No 37

South-west Tablelands Water Supply Administration Act 1941 No 36

Traffic Act 1909 No 5.

Schedule 6 contains provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Dictionary defines various words and expressions used in the proposed Act.