

SYDNEY ELECTRICITY BILL 1990*

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to abolish the Sydney County Council and to constitute in its place a body corporate to be known as Sydney Electricity. The powers, authorities, duties and functions of Sydney Electricity are specified in the proposed Act rather than being derived from the Local Government Act 1919.

The policies of Sydney Electricity are to be determined by 9 directors, 5 of whom are to be elected from among the members of local government councils within the Sydney Electricity District and 4 of whom are to be appointed by the Minister.

Sydney Electricity is to be managed by a Chief Executive.

Provision is made in the proposed Act enabling the Minister to give directions to the directors concerning the exercise of Sydney Electricity's functions and requiring the directors and the Chief Executive to comply with any such direction.

Sydney Electricity is required to prepare a corporate plan for each financial year and may also be required to enter into performance agreements.

The proposed Act provides for the staff of Sydney Electricity, specifies the financial provisions that are to apply to Sydney Electricity and enacts other miscellaneous provisions.

PART 1 — PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a proclaimed day or days.

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

Clause 3 defines expressions used in the proposed Act.

PART 2 — CONSTITUTION OF SYDNEY ELECTRICITY

Clause 4 constitutes Sydney Electricity as a statutory body representing the Crown.

PART 3 — FUNCTIONS OF SYDNEY ELECTRICITY

Clause 5 states the principal functions of Sydney Electricity (including the purchase and supply of electricity and the development, manufacture and supply of electrical fittings and appliances).

Clause 6 confers miscellaneous powers and functions on Sydney Electricity. In particular, Sydney Electricity is authorised to conduct any business in order to utilise its staff and facilities.

Clause 7 authorises the delegation of the functions of Sydney Electricity to authorised persons.

PART 4 — THE MINISTER AND THE DIRECTORS OF SYDNEY ELECTRICITY

Clause 8 makes provision concerning the directors of Sydney Electricity. There are to be 9 directors, 5 of whom are to be elected by the members of local government councils within the Sydney Electricity District and 4 of whom are to be appointed by the Minister. Of the directors, one is to be appointed by the Minister as Chairperson of Sydney Electricity and the Minister may appoint another director as Deputy Chairperson.

Clause 9 provides that the function of the directors is to determine the policies of Sydney Electricity.

Clause 10 deals with Ministerial control of Sydney Electricity. Under the clause, the Minister may give the directors of Sydney Electricity written directions in relation to the exercise of Sydney Electricity's functions. The directors may request the Minister to review the direction if they consider that Sydney Electricity would suffer a significant financial loss as a result of complying with the direction. After review, the Minister may confirm or revoke the direction.

Clause 11 requires Sydney Electricity to supply the Minister with relevant information relating to its activities.

Clause 12 makes provision for the preparation and annual review of a corporate plan for Sydney Electricity. Under the clause:

- (a) Sydney Electricity is required each year to prepare a corporate plan having regard to such comments as the Minister may make on the draft plan;
- (b) Sydney Electricity is required to exercise its functions, as far as practicable, in accordance with the plan; and
- (c) the plan is to specify objectives, policies etc. to achieve those objectives and criteria to assess its performance.

Sydney Electricity 1990

Clause 13 provides that, in addition to or in accordance with the provisions of a corporate plan, the Minister may require Sydney Electricity to enter into a performance agreement which sets operational performance targets and provides for evaluation and review.

PART 5—THE CHIEF EXECUTIVE OF SYDNEY ELECTRICITY

Clause 14 provides for the appointment of a Chief Executive and an acting Chief Executive of Sydney Electricity. The Chief Executive is to be appointed by the Governor after the directors of Sydney Electricity have been given an opportunity to recommend a person or persons for appointment.

Clause 15 provides for the affairs of Sydney Electricity to be managed and controlled by the Chief Executive in accordance with the policies of the directors.

Clause 16 gives the Chief Executive the right to attend and participate in meetings of directors but not to vote.

PART 6—STAFF

Clause 17 authorises Sydney Electricity to employ necessary staff. The staff are not employed under the Public Sector Management Act 1988.

Clause 18 authorises Sydney Electricity to fix the salary, wages and conditions of its staff (subject to any other Act or law). (Sydney Electricity is made a declared authority by amendment of the Public Sector Management Act 1988. This will not cause the staff of Sydney Electricity to become public servants but it will apply to Sydney Electricity provisions which will enable governmental supervision of its general industrial relations policy and its general administration.)

Clause 19 authorises regulations to be made with respect to the employment of the staff of Sydney Electricity. The regulations are to be subject to any industrial award or agreement in connection with conditions of employment.

Clause 20 authorises Sydney Electricity to arrange for the use of the staff and facilities of government departments and of public or local authorities.

Clause 21 enables Sydney Electricity to engage consultants.

PART 7—FINANCE

Clause 22 requires Sydney Electricity to establish funds to be known as the Sydney Electricity General Fund and the Sydney Electricity Trust Fund.

Clause 23 provides for the making of payments to and from the General Fund.

Clause 24 provides for the making of payments to and from the Trust Fund.

Clause 25 enables the Treasurer to direct the payment by Sydney Electricity into the Consolidated Fund by way of dividend of amounts determined by the Treasurer from the profits and accumulated reserves of Sydney Electricity.

Clause 26 provides for the manner of payment, and the possible waiver or reduction by the Treasurer, of amounts payable under clause 25.

Sydney Electricity 1990

Clause 27 authorises Sydney Electricity to invest money held by it.

Clause 28 provides that all money received on account of the Fund is to be paid into a bank in New South Wales.

Clause 29 provides for the financial year of Sydney Electricity.

PART 8—ENTRY AND INSPECTION

Clause 30 contains a definition of 'authorised person' for the purposes of the proposed Part.

Clause 31 provides for the authorisation by Sydney Electricity of persons to carry out functions under the proposed Act. An authorised person is to be furnished with a certificate of authority and is required to produce the certificate if requested to do so by a person whose land or building has been entered by the authorised person.

Clause 32 provides that an authorised person may enter land or buildings at all reasonable hours for purposes such as installing or reading metering equipment and checking if conditions relating to tariffs and the use of electricity are being complied with.

Clause 33 requires that, before entering land or a building, the Chief Executive or an authorised person must serve a notice of intention to enter on the owner or occupier. Notice is not required if the owner or occupier has given consent to the entry, if the entry is required urgently or if the entry is solely for the purpose of reading an electricity meter.

Clause 34 authorises the use of reasonable force to gain entry but only if the Chief Executive has given authority in writing to the use of force in the circumstances.

Clause 35 requires the Chief Executive or an authorised officer to give notice to the appropriate person or authority if force is used to gain entry without prior notice being given.

Clause 36 requires an authorised officer to do as little damage as possible when entering and, if necessary, to provide other means of access or temporary works or structures in place of any taken away or interrupted by it.

Clause 37 sets out the circumstances in which Sydney Electricity may recover the costs of entry and inspection from the owner or occupier (for example, if as a result of the inspection, Sydney Electricity requires work to be carried out).

Clause 38 requires Sydney Electricity to pay compensation for any damage it causes as a result of entry (other than damage arising from work done for the purposes of an inspection).

Clause 39 authorises Sydney Electricity to discontinue the supply of electricity to premises if access to the premises at any reasonable time is denied or obstructed.

PART 9 - MISCELLANEOUS

Clause 40 enables the resumption or appropriation of land for the purposes of the proposed Act. Any such resumption or appropriation is to be effected under the Public Works Act 1912.

Sydney Electricity 1990

Clause 41 enables Sydney Electricity to discontinue the supply of electricity to a person who has failed to pay an electricity account and who has been notified of the intention to discontinue.

Clause 42 confers on Sydney Electricity the power, after giving appropriate notice, to break open public roads and public reserves for the purpose of exercising its functions.

Clause 43 enables Sydney Electricity, in order to exercise its functions, to request another authority to alter the position of a service (for example, in the form of a pipe or cable) provided by the other authority. Sydney Electricity is empowered to make the alteration, without permanent damage to the service, if the other authority does not make the alteration requested.

Clause 44 enables Sydney Electricity to demolish or remove a structure or work which interferes with a work of Sydney Electricity.

Clause 45 prevents electricity works of Sydney Electricity from being taken in execution of any court process issued against another person.

Clause 46 authorises Sydney Electricity to waive or refund charges etc.

Clause 47 provides that a function exercised by Sydney Electricity or a delegate of Sydney Electricity is not invalidated if it is exercised contrary to a direction by the Minister.

Clause 48 exculpates from personal liability the directors of Sydney Electricity or persons duly acting under direction for any matter or thing done in good faith in the execution of official duties.

Clause 49 makes provision for the custody and use of the seal of Sydney Electricity.

Clause 50 provides for the service of documents on Sydney Electricity.

Clause 51 enables Sydney Electricity to recover charges etc. due as a debt.

Clause 52 provides that offences against the proposed Act or regulations are to be dealt with in a summary manner before a Local Court.

Clause 53 empowers the making of regulations generally for the purposes of the proposed Act. References in this clause to monetary penalties are expressed in penalty units. Under section 56 of the Interpretation Act 1987, 1 penalty unit is currently equivalent to \$100.

Clause 54 provides for the repeal of the Sydney County Council (Elections) Act 1968.

Clause 55 repeals Ordinance No. 20A made under the Local Government Act 1919 and a regulation under the Gas Act 1986 relating to the preparation of estimates and budget meeting of the Sydney County Council.

Clause 56 provides for the consequential amendment of the Acts specified in Schedule 4.

Sydney Electricity 1990

Clause 57 is a formal provision that gives effect to the savings, transitional and other provisions in Schedule 5.

SCHEDULES

Schedule 1 describes the Sydney Electricity District by reference to local government areas.

Schedule 2 contains provisions relating to the directors of Sydney Electricity, including the conduct of elections of elected directors, the terms of office of directors and a requirement for the disclosure of pecuniary interests.

Schedule 3 contains provisions relating to the procedure at meetings of directors of Sydney Electricity.

Schedule 4 contains proposed amendments to other Acts consequent on the enactment of the proposed Act.

The Acts amended are:

- Electricity Act 1945
- Electricity Commission Act 1950
- Government and Related Employees Appeal Tribunal Act 1980
- Local Government Act 1919
- Local Government Associations Incorporation Act 1974
- Public Authorities (Financial Arrangements) Act 1987
- Public Finance and Audit Act 1983
- Public Sector Management Act 1988
- State Authorities Non-contributory Superannuation Act 1987
- State Authorities Superannuation Act 1987
- Superannuation Act 1916
- Unclaimed Money Act 1982

Schedule 5 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.
