

# National Electricity (New South Wales) Act 1997

## No 20

[1997-20]



New South Wales

### Status Information

#### Currency of version

Historical version for 3 December 1999 to 30 June 2013 (accessed 28 May 2024 at 13:15)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

#### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

#### Notes—

- **Does not include amendments by**  
[Energy Legislation Amendment \(National Energy Retail Law\) Act 2012 No 38](#) (not commenced — to commence on 1.7.2013)

#### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# National Electricity (New South Wales) Act 1997 No 20



New South Wales

An Act to make provision for the operation of a national electricity market, to consequentially amend certain other Acts; and for other purposes.

## Preamble

A National Grid Management Council was formed following decisions of Special Premiers' Conferences in October 1990 and July 1991.

The National Grid Management Council has developed plans for a co-ordinated electricity market spanning the eastern States, South Australia and the Australian Capital Territory.

The Council of Australian Governments agreed in February 1994 to recommendations for regulatory arrangements for the national electricity market consistent with reforms of competition policy.

The regulatory arrangements include regulation of certain elements of the operation of the market by way of a code of conduct that is subject to authorisation under the [Trade Practices Act 1974](#) of the Commonwealth.

The States of New South Wales, Victoria, Queensland and South Australia and the Australian Capital Territory have agreed to the enactment of legislation in the several jurisdictions for the implementation of the regulatory arrangements.

**The Legislature of New South Wales enacts:**

## Part 1 Preliminary

### 1 Name of Act

This Act is the [National Electricity \(New South Wales\) Act 1997](#).

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions

(1) In this Act:

***National Electricity (NSW) Law*** means the provisions applying because of section 6.

***National Electricity (NSW) Regulations*** means the provisions applying because of section 7.

(2) Words and expressions used in this Act and also in the *National Electricity (NSW) Law* have the same meanings in this Act as they have in that Law.

(3) Subsection (2) does not apply to the extent that the context or subject-matter otherwise indicates or requires.

### 4 Crown to be bound

This Act, the *National Electricity (NSW) Law* and the *National Electricity (NSW) Regulations* bind the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

### 5 Extra-territorial operation

It is the intention of Parliament that the operation of this Act, the *National Electricity (NSW) Law* and the *National Electricity (NSW) Regulations* should, so far as possible, include operation in relation to the following:

- (a) land situated outside New South Wales, whether in or outside Australia,
- (b) things situated outside New South Wales, whether in or outside Australia,
- (c) acts, transactions and matters done, entered into or occurring outside New South Wales, whether in or outside Australia,
- (d) things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of the Commonwealth, another State, a Territory or a foreign country.

## Part 2 National Electricity (NSW) Law and National Electricity (NSW) Regulations

### 6 Application in New South Wales of National Electricity Law

The National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996* of South Australia, as in force for the time being:

- (a) applies as a law of New South Wales, and
- (b) as so applying, may be referred to as the *National Electricity (NSW) Law*.

## **7 Application in New South Wales of regulations under National Electricity Law**

The regulations in force for the time being under Part 4 of the *National Electricity (South Australia) Act 1996* of South Australia:

- (a) apply as regulations in force for the purposes of the *National Electricity (NSW) Law*, and
- (b) as so applying, may be referred to as the *National Electricity (NSW) Regulations*.

## **8 Interpretation of expressions in National Electricity (NSW) Law and National Electricity (NSW) Regulations**

- (1) In the *National Electricity (NSW) Law* and the *National Electricity (NSW) Regulations*:

**Legislature of this jurisdiction** means the Legislature of New South Wales.

**Supreme Court** means the Supreme Court of New South Wales.

**the jurisdiction** or **this jurisdiction** means the State of New South Wales.

**the National Electricity Law** or **this Law** means the *National Electricity (NSW) Law*.

- (2) The *Acts Interpretation Act 1915*, and other Acts, of South Australia do not apply to:

- (a) the National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996* of South Australia in its application as a law of New South Wales, or
- (b) the regulations in force for the time being under Part 4 of the *National Electricity (South Australia) Act 1996* of South Australia in their application as regulations in force for the purposes of the *National Electricity (NSW) Law*.

## **Part 3 Miscellaneous**

### **9 (Repealed)**

### **10 Savings, transitional and other provisions**

Schedule 2 has effect.

### **11 Review of Act**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament

within 12 months after the end of the period of 5 years.

## **Schedule 1 (Repealed)**

## **Schedule 2 Savings, transitional and other provisions**

(Section 10)

### **1 Transitional arrangements with respect to certain liabilities affecting electricity supply authorities**

- (1) This clause applies to any electricity supply authority whose name has been omitted from Schedule 1 to the *Independent Pricing and Regulatory Tribunal Act 1992* by Schedule 1.6 [2] to this Act or by Schedule 2 to the *Energy Services Corporations Amendment (TransGrid Corporatisation) Act 1998*.
- (2) Until the end of 30 June 1999 or such other date as may be prescribed by the regulations:
  - (a) section 38 (1) of the *Electricity Transmission Authority Act 1994* continues to apply as if it had not been repealed, and
  - (b) section 78 of the *National Electricity (NSW) Law* does not apply, to any act or omission of TransGrid.
- (3) Until the end of 30 June 1999 or such other date as may be prescribed by the regulations:
  - (a) section 53 of the *Electricity Supply Act 1995* continues to apply as if it had not been repealed, and
  - (b) section 78 of the *National Electricity (NSW) Law* does not apply, to any act or omission of an electricity supply authority to which this clause applies.
- (4) In this clause, **electricity supply authority** means any of the following:
  - (a) TransGrid,
  - (b) Advance Energy,
  - (c) Australian Inland Energy,
  - (d) EnergyAustralia,
  - (e) Great Southern Energy,
  - (f) Integral Energy Australia,
  - (g) NorthPower.

## **2 Transitional arrangements with respect to certain liabilities affecting electricity generators**

- (1) This clause applies to and in relation to any contract for the supply of electricity that was entered into by Pacific Power or by an electricity generator (within the meaning of the *Energy Services Corporations Act 1995*) before the commencement of this clause.
- (2) For the purposes of any contract to which this clause applies and of any proceedings arising out of, or calling into question any provision of, a contract to which this clause applies:
  - (a) section 83 of the *Electricity (Pacific Power) Act 1950* continues to apply as if this Act had not been enacted, and
  - (b) section 78 of the *National Electricity (NSW) Law* does not apply.

## **2A Transitional arrangements for termination of Funds operated by Market System Operator**

- (1) This clause applies to the System Control Fund, the Market Operations Fund and the Market Settlements Fund established under Division 1 of Part 7 of the *Electricity Supply Act 1995* immediately before the repeal of that Division by this Act.
- (2) Despite that repeal, any such Fund continues in existence and may be operated by any person designated by the Minister for the purpose of finalising arrangements for which it was established and for the purpose of its winding up.
- (3) The Minister may distribute any amount remaining to the credit of any such Fund on its winding up in such manner as the Minister considers appropriate.

## **3 Savings and transitional regulations**

- (1) The Governor may make regulations of a savings or transitional nature consequent on the enactment or commencement of this Act.
- (2) If the regulations so provide, they have effect despite any provision of this Schedule, the *National Electricity (NSW) Law* or the *National Electricity (NSW) Regulations*.
- (3) A provision of a regulation made under this clause may, if the regulation so provides, take effect from the date of assent to this Act or from a later day.
- (4) To the extent to which a provision takes effect from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person (other than the State or a State authority) by:
  - (a) decreasing the person's rights, or
  - (b) imposing liabilities on the person.