

First print



New South Wales

Energy Services Corporations Amendment (TransGrid Corporatisation) Bill 1998

Explanatory note

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

Overview of Bill

The object of this Bill is to corporatise the Electricity Transmission Authority. Under the amendments to the *Energy Services Corporations Act 1995* made by the Bill, the Authority will become a statutory State owned corporation under the *State Owned Corporations Act 1989* with the corporate name of TransGrid.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Energy Services Corporations Act 1995* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to other Acts and regulations set out in Schedule 2.

Clause 5 repeals the *Electricity Transmission Authority Act 1994* and the regulations made under that Act.

Schedule 1 Amendment of Energy Services Corporations Act 1995

Schedule 1 [4] inserts new Part 2A into the Principal Act relating to energy transmission operators. The new Part establishes TransGrid as a statutory State owned corporation and amends the *State Owned Corporations Act 1989* accordingly. The new Part also sets out the objectives and functions of TransGrid (and any other future energy transmission operators). Those objectives and functions are similar to other energy services corporations except that the principal objectives and functions of TransGrid relate to the provision of facilities for the transmission of electricity and other forms of energy.

Schedule 1 [1]–[3] and [5]–[11] make consequential amendments. In particular, the amendments apply the special provisions of the Principal Act relating to the other energy services corporations (that is, electricity generators and energy distributors) to TransGrid, including special provisions relating to:

- (a) restrictions on the sale of shares and on the appointment of shareholding Ministers (section 11 of the Principal Act), and
- (b) the appointment and removal of the board of directors (clause 1 of Schedule 2 to the Principal Act), and
- (c) the appointment and other provisions relating to the chief executive officer (clause 2 of Schedule 2 to the Principal Act), and
- (d) the payment of dividends (clause 4 of Schedule 2 to the Principal Act).

Schedule 1 [12] inserts provisions consequent on the enactment of the proposed Act, including:

- (a) the dissolution of the Electricity Transmission Authority, and
- (b) the transfer, by Ministerial order, of the assets, rights and liabilities of the Authority to TransGrid, and

- (c) the appointment of the existing part-time directors of the Board as part-time directors of the Board of TransGrid for a period of 1 year, and
- (d) the automatic transfer of all staff of the Authority (including the chief executive officer) to the service of TransGrid on existing terms and conditions of employment, and
- (e) provisions relating to the management of the State electricity market should the proposed Act commence before the commencement of the national electricity market.

Schedule 1 [13] authorises the finalisation of arrangements relating to asset transfers arising from the establishment of TransGrid and the other energy services corporations.

Schedule 2 Amendment of other Acts and regulations

The Schedule amends the following Acts and regulations consequentially:

Electricity (Pacific Power) Act 1950

Electricity Safety Act 1945

Electricity Supply Act 1995

First State Superannuation Act 1992

Government and Related Employees Appeal Tribunal Act 1980

Independent Pricing and Regulatory Tribunal Act 1992

National Electricity (New South Wales) Act 1997

Occupational Health and Safety Amendment Act 1997

Public Authorities (Financial Arrangements) Act 1987

Public Authorities (Financial Arrangements) Regulation 1995

Public Finance and Audit Act 1983

Public Sector Executives Superannuation Act 1989

Public Sector Management Act 1988

Rural Fires Regulation 1997

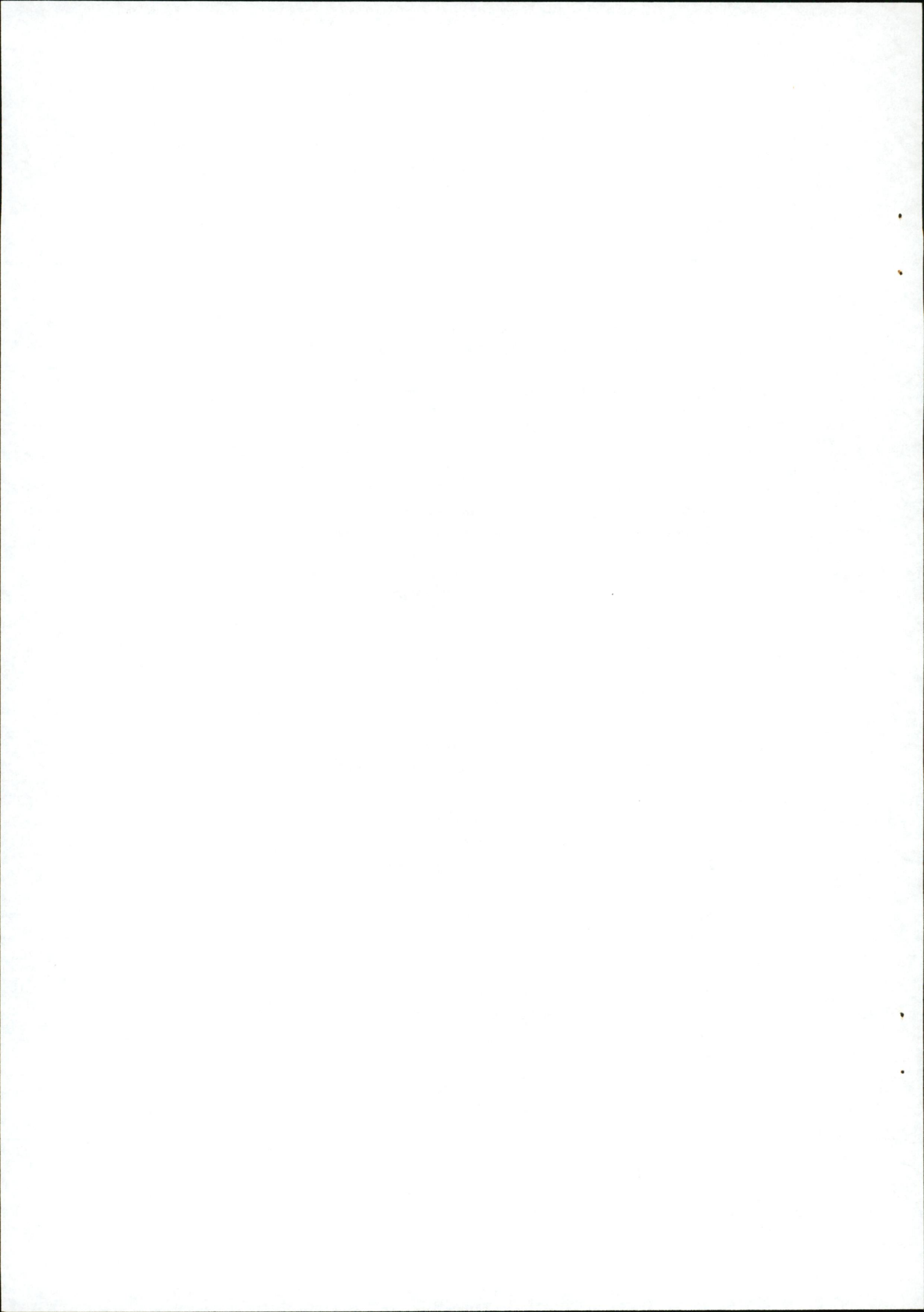
Snowy Hydro Corporatisation Act 1997

State Authorities Non-contributory Superannuation Act 1987

State Authorities Superannuation Act 1987

Superannuation Act 1916

Superannuation Administration (Electricity Superannuation Scheme Transitional Provisions) Regulation 1997





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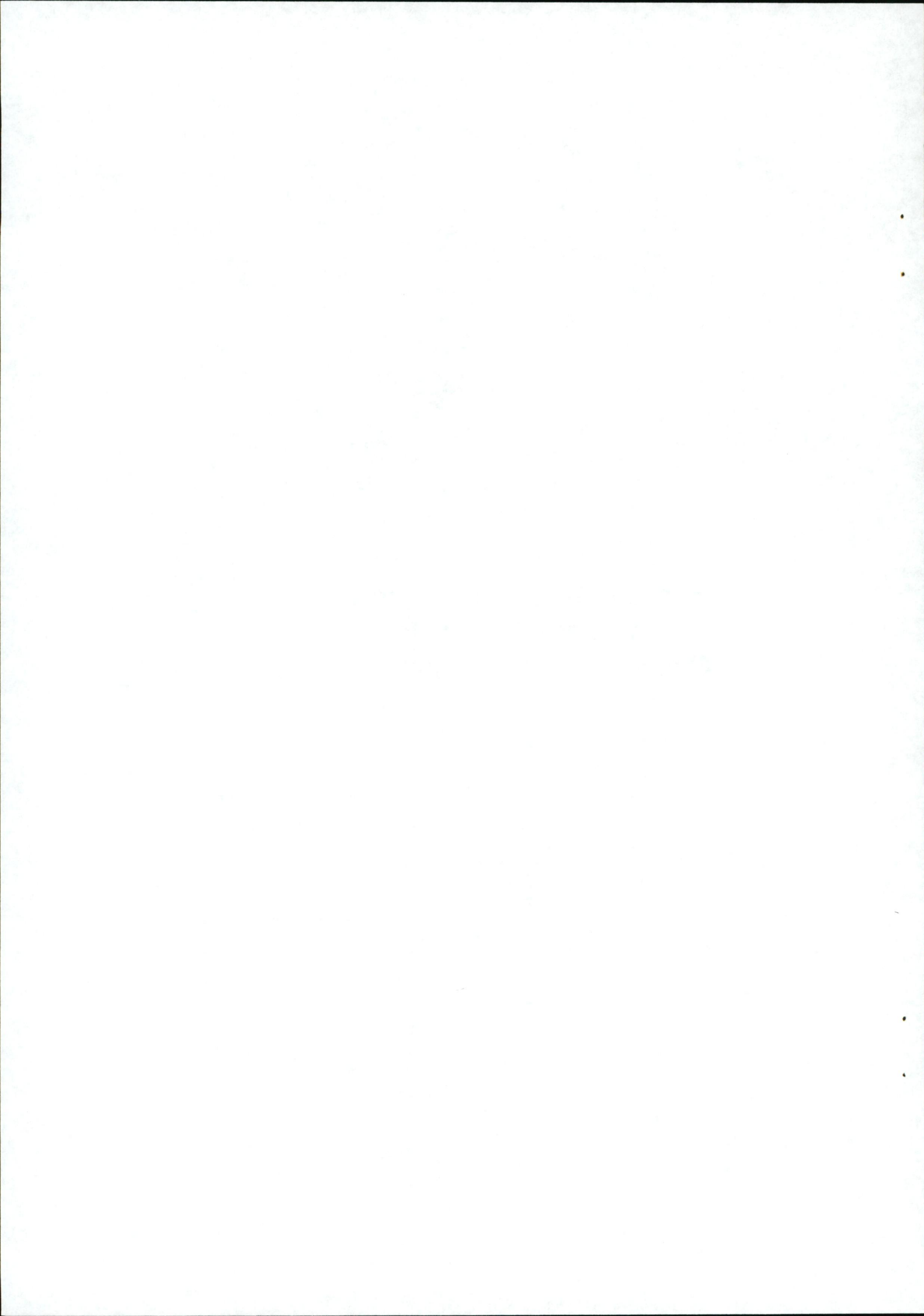
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New South Wales

Energy Services Corporations Amendment (TransGrid Corporatisation) Bill 1998

No , 1998

A Bill for

An Act to amend the *Energy Services Corporations Act 1995* to corporatise the Electricity Transmission Authority; to make consequential amendments to other Acts and regulations; to repeal the *Electricity Transmission Authority Act 1994*; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Energy Services Corporations Amendment (TransGrid Corporatisation) Act 1998*.

2 Commencement

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

3 Amendment of Energy Services Corporations Act 1995 No 95

The *Energy Services Corporations Act 1995* is amended as set out in Schedule 1.

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4 Amendment of other Acts and regulations

The Acts and regulations specified in Schedule 2 are amended as set out in that Schedule.

5 Repeal of Electricity Transmission Authority Act 1994 No 64 and regulations under that Act

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- (1) The *Electricity Transmission Authority Act 1994* is repealed.
- (2) The regulations made under that Act are repealed, including the *Electricity Transmission Authority (Savings and Transitional) Regulation 1995*.

Schedule 1 Amendment of Energy Services Corporations Act 1995

(Section 3)

[1] Long title

Insert “, transmission” after “generation”.

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[2] Section 3 Definitions

Insert “, an energy transmission operator” after “electricity generator” in the definition of *energy services corporation* in section 3 (1).

[3] Section 3 (1)

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Insert in alphabetical order:

energy transmission operator means a corporation constituted by this Act, being a corporation whose corporate name is listed in Part 1A of Schedule 1.

[4] Part 2A

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Insert after Part 2:

Part 2A Energy transmission operators

6A Establishment of statutory State owned corporations

On the day on which this section commences:

(a) a corporation is constituted by this Act under the corporate name listed in Part 1A of Schedule 1, and

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(b) the *State Owned Corporations Act 1989* is amended by inserting in Schedule 5, in alphabetical order, the corporate name listed in Part 1A of Schedule 1.

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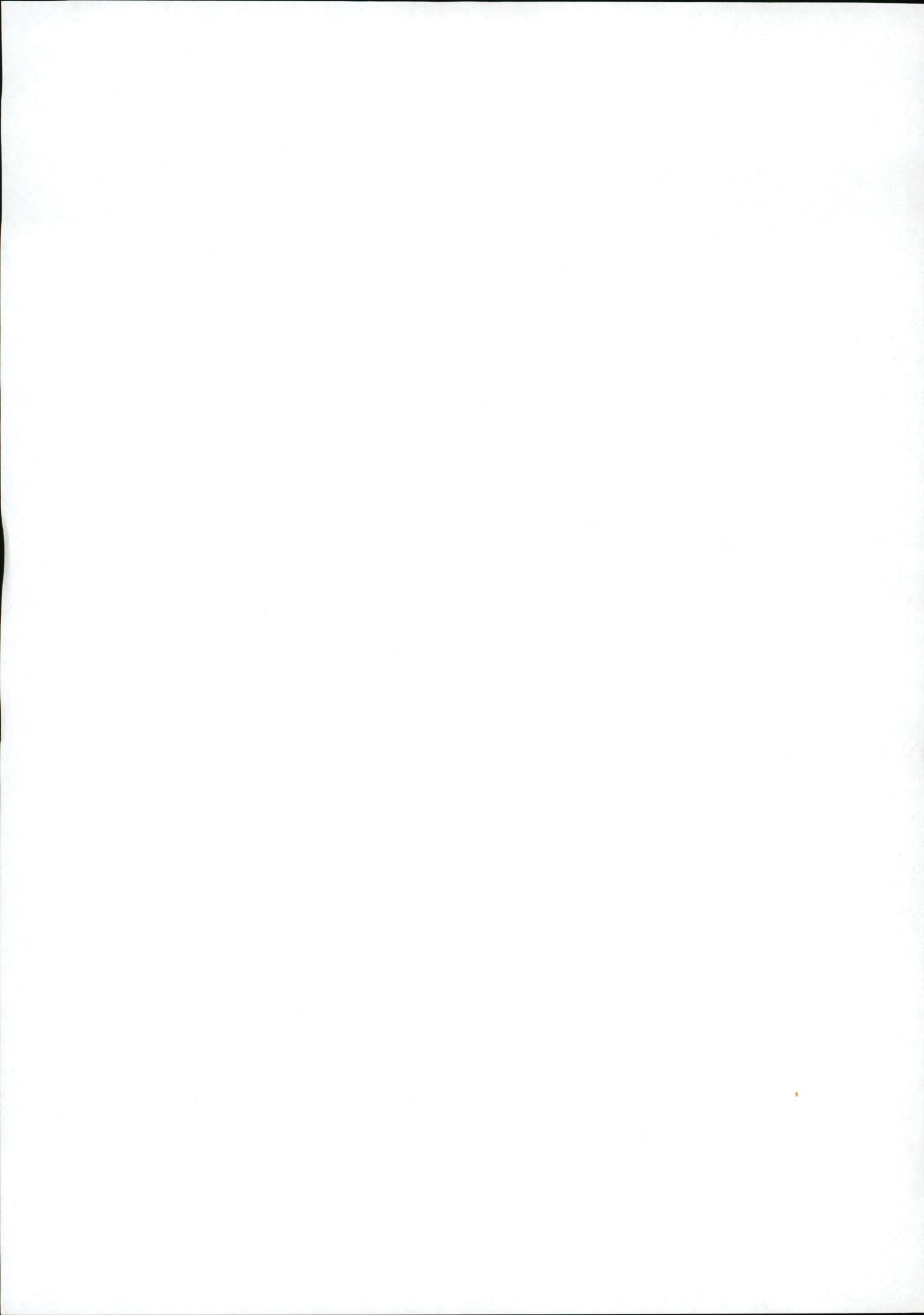
6B Principal objectives of energy transmission operators

(1) The principal objectives of an energy transmission operator are as follows:

- (a) to be a successful business and, to this end:
 - (i) to operate at least as efficiently as any comparable businesses,
 - (ii) to maximise the net worth of the State's investment in it, 5
 - (iii) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates,
 - (b) to protect the environment by conducting its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*, 10
 - (c) to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates, 15
 - (d) to operate efficient, safe and reliable facilities for the transmission of electricity and other forms of energy,
 - (e) to promote effective access to those transmission facilities. 20
- (2) Each of the principal objectives of an energy transmission operator is of equal importance.
- (3) The provisions of section 20E of the *State Owned Corporations Act 1989* do not apply to an energy transmission operator. 25

6C Functions of energy transmission operators

- (1) An energy transmission operator has the functions conferred or imposed on it by or under this or any other Act or law. 30
- (2) The principal functions of an energy transmission operator are:
 - (a) to establish, maintain and operate facilities for the transmission of electricity and other forms of energy, and 35



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- (b) to provide services for the transmission of electricity and other forms of energy in accordance with the relevant regulatory regime.
- (3) An energy transmission operator:
- (a) may also provide facilities and services that are ancillary or incidental to its principal functions, and 5
- (b) may also conduct any business (whether or not related to its principal functions) that it considers will further its objectives. 10
- In particular, an energy transmission operator may utilise and develop its facilities in connection with the provision of telecommunications services.
- (4) This section does not limit the functions of an energy transmission operator apart from this section, but is subject to the provisions of this Act, the *State Owned Corporations Act 1989* and any other Act or law. 15
- [5] Section 12 Variation of names of energy services corporations**
Insert “, 1A” after “Part 1”.
- [6] Section 13 Creation of additional energy services corporations** 20
Insert “, 1A” after “Part 1” in section 13 (1).
- [7] Section 14 Dissolution of existing energy services corporations**
Insert “, 1A” after “Part 1” in section 14 (1).
- [8] Schedule 1 Energy services corporations** 25
Insert after Part 1:
Part 1A Energy transmission operators
TransGrid
- [9] Schedule 3 Transfer of staff, assets, rights and liabilities**
Omit “or 12” from clause 1 (1).
Insert instead “, 12, 13A, 13D, 13F or 16”. 30

[10] Schedule 4 Amendment of other Acts and instruments

Omit "First State Power" and "Macquarie Generation" from Schedule 4.14 [1].

[11] Schedule 5 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

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Energy Services Corporations Amendment (TransGrid Corporatisation) Act 1998

[12] Schedule 5, Part 2, Division 2A

Insert after Division 2 of Part 2:

Division 2A Provisions consequent on enactment of the Energy Services Corporations Amendment (TransGrid Corporatisation) Act 1998 10

13 Definitions

In this Division:

former Act means the *Electricity Transmission Authority Act 1994*. 15

former Authority means the Electricity Transmission Authority constituted by the former Act.

former staff means the persons who were members of the staff of the former Authority immediately before the dissolution of the former Authority (other than the Chief Executive of the former Authority), and includes any such person who was seconded to a subsidiary company pursuant to section 26 of the former Act. 20

13A Transfer of assets, rights and liabilities of former Authority 25

(1) The Minister may direct, by order in writing:

(a) that all assets, rights and liabilities of the former Authority, or

-
- (b) that any specified assets, rights and liabilities of the former Authority, or
- (c) that all assets, rights and liabilities of the former Authority other than those specified,
- be transferred to TransGrid. 5
- (2) The Minister may also direct, by order in writing, that any specified assets, rights and liabilities of the former Authority be transferred to any other person or body acting on behalf of the Crown as is specified in the order.
- (3) An order under this clause may be made on such terms and conditions as are specified in the order. 10
- (4) Schedule 3 applies to a transfer of assets, rights and liabilities under this clause.
- (5) Section 20C of the *State Owned Corporations Act 1989* does not apply to the assets, rights or liabilities of the former Authority. 15
- 13B Part-time directors and Chairperson of Board of former Authority**
- (1) The part-time directors of the Board of the former Authority become, on the dissolution of the former Authority, directors of the Board of TransGrid. 20
- (2) Those directors are taken to have been appointed to the Board of TransGrid for a term of one year from that dissolution.
- (3) The part-time director referred to in section 16 (2) (c) of the former Act is taken to have been appointed as the director referred to in clause 1 (2) (b) of Schedule 2 to this Act. 25
- (4) The part-time director who was, on the dissolution of the former Authority, the Chairperson of the Board of the former Authority is taken to have been appointed as the chairperson of the Board of TransGrid. 30
- 13C Chief Executive of former Authority**
- (1) The Chief Executive of the former Authority (if any) becomes, on the dissolution of the former Authority, the chief executive officer of TransGrid for the residue of his 35

or her term of office as, and subject to the same conditions (including conditions as to remuneration) as those of his or her appointment as, Chief Executive of the former Authority.

- (2) The other provisions of clause 2 of Schedule 2 apply to a chief executive officer taken to be appointed in accordance with this clause. 5

13D Transfer of staff

- (1) All former staff are transferred to TransGrid on the dissolution of the former Authority. 10
- (2) Schedule 3 applies to a transfer of staff under this clause.

13E Special provision relating to former public sector executive officers

- (1) This clause applies to a person to whom clause 13C or 13D applies who held an executive position under Part 2A of the *Public Sector Management Act 1988* immediately before the dissolution of the former Authority. 15
- (2) Any such person is not entitled to exercise a right of return to the public sector under section 42R, or to seek compensation under section 42S, of the *Public Sector Management Act 1988*: 20
- (a) on ceasing to hold the executive position on the dissolution of the former Authority, or
- (b) on ceasing to be employed by TransGrid. 25
- (3) This clause applies despite anything to the contrary in this Act.

13F Dissolution of Electricity Transmission Authority

- (1) The former Authority is dissolved.
- (2) The assets, rights and liabilities (if any) of the former Authority immediately before its dissolution are by this clause transferred to the Ministerial Holding Corporation established under section 37B of the *State Owned Corporations Act 1989*, if any such assets, rights or liabilities remain after the operation of any order under clause 13A that takes effect on or before its dissolution. 30 35

-
- (3) On and from the dissolution of the former Authority, TransGrid is taken for all purposes, including the rules of private international law, to be a continuation of, and the same legal entity as, the former Authority.

13G Variation of timetable for first statement of corporate intent 5

- (1) A period within which any matter is required to be done under section 21 of the *State Owned Corporations Act 1989* in connection with the first statement of corporate intent of TransGrid may be extended by the voting shareholders of TransGrid. 10
- (2) The voting shareholders of TransGrid may also dispense with the need for the first statement of corporate intent to cover a specified period after the commencement of this clause or may direct that any such period be added to the period covered by the first statement of corporate intent. 15

13H Special provisions applying if this Act commences before commencement of national market in electricity

- (1) This clause applies if the former Act is repealed before the commencement of the *National Electricity (NSW) Law* and applies until such time as that Law commences. 20
- (2) In this clause, a reference to the alternative Market and System Operator is a reference to the eligible person appointed (instead of TransGrid) as the Market and System Operator for the purposes of the *Electricity Supply Act 1995* under section 77 (2) of that Act. 25
- (3) The Minister may, by order, transfer to the alternative Market and System Operator specified employees of TransGrid. The transferred employees remain employees of TransGrid and are merely seconded to the alternative Market and System Operator. 30
- (4) The Minister may, after consultation with the Treasurer, give the Board of TransGrid a written direction with respect to the provision of facilities, services or

information by TransGrid to the alternative Market and System Operator to enable the exercise of that Operator's functions under the *Electricity Supply Act 1995*. The Board must ensure that any such direction is carried out. 5

- (5) Sections 9 (1A), 11 and 38 (1) of the former Act continue to have effect, as if references to the former Authority were references to:
- (a) TransGrid, and
 - (b) the alternative Market and System Operator. 10
- (6) Section 98U (1) (o) of the *Stamp Duties Act 1920* and paragraph (a) (viic) of the definition of *excluded debit* in section 3 (1) of the *Debits Tax Act 1990* have effect as if a reference in those provisions to the former Authority were a reference to: 15
- (a) TransGrid, and
 - (b) the alternative Market and System Operator.

[13] Schedule 5

Insert after clause 15:

16 Finalisation of arrangements relating to certain property transfers 20

- (1) This clause applies to assets, rights and liabilities of a relevant body:
- (a) that comprise or relate to electricity transmission lines of 132kV (or lower voltage), substations, switching stations or other facilities, and 25
 - (b) that are:
 - (i) to be transferred with the agreement of the relevant body, or

-
- (ii) the subject of any directions, recommendations or arrangements for transfer given or made under this Act or any other Act before the commencement of this clause, or 5
- (iii) the subject of discussions and negotiations under clause 5 of Schedule 2 to the *Electricity Transmission Authority Act 1994* before its repeal.
- (2) The Minister may direct, by order in writing, that any such specified assets, rights and liabilities of a relevant body be transferred to another relevant body specified in the order. 10
- (3) A **relevant body** is Pacific Power, an energy services corporation, the Ministerial Holding Corporation established under section 37B of the *State Owned Corporations Act 1989* or any other person or body acting on behalf of the Crown. 15
- (4) An order under this clause may be made on such terms and conditions as are specified in the order. 20
- (5) Schedule 3 applies to a transfer of assets, rights and liabilities under this clause.
- (6) This clause does not affect the power under this Act to make any other order to which Schedule 3 applies.
- (7) The clause expires on the fifth anniversary of the day on which it commences. 25

Schedule 2 Amendment of other Acts and regulations

(Section 4)

2.1 Electricity (Pacific Power) Act 1950 No 22

Section 7A Commission not to exercise transmission functions 5

Omit "the Electricity Transmission Authority" wherever occurring.
Insert instead "TransGrid (or any other energy transmission operator under the *Energy Services Corporations Act 1995*)".

2.2 Electricity Safety Act 1945 (1946 No 13)

Sections 4 (1), 14A and 15 (2) 10

Omit "the Electricity Transmission Authority" wherever occurring.
Insert instead "TransGrid (or any other energy transmission operator under the *Energy Services Corporations Act 1995*)".

2.3 Electricity Supply Act 1995 No 94

Dictionary, definition of "TransGrid" 15

Omit the definition.

2.4 First State Superannuation Act 1992 No 100

Schedule 1 Employers

Omit "Electricity Transmission Authority" from Part 1.
Insert instead "TransGrid". 20

2.5 Government and Related Employees Appeal Tribunal Act 1980 No 39

Schedule 4 Employing authorities

Omit "Electricity Transmission Authority".

2.6 Independent Pricing and Regulatory Tribunal Act 1992 No 39 5

[1] Schedule 1 Government agencies for which Tribunal has standing reference

Omit "Electricity Transmission Authority".

Insert instead "TransGrid".

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[2] Schedule 4, Part 3 National Electricity (New South Wales) Act 1997 (as inserted by Act No 20 of 1997)

Omit "the Electricity Transmission Authority" from clause 6.

Insert instead "TransGrid".

2.7 National Electricity (New South Wales) Act 1997 No 20 15

[1] Schedule 1 Amendment of Acts

Omit Schedule 1.4.

[2] Schedule 1.6 [2] and [4]

Omit "Electricity Transmission Authority" from item [2] and "the Electricity Transmission Authority" from item [4].

Insert instead "TransGrid".

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[3] Schedule 2 Savings, transitional and other provisions

Insert “or by Schedule 2 to the *Energy Services Corporations Amendment (TransGrid Corporatisation) Act 1998*” after “this Act” in clause 1 (1).

[4] Schedule 2, clause 1 (2) (a) and (3) (a)

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Omit “as if this Act had not been enacted” wherever occurring.
Insert instead “as if it had not been repealed”.

[5] Schedule 2, clause 1

Omit “the Electricity Transmission Authority” wherever occurring (except in subclause (2) (a)).
Insert instead “TransGrid”.

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[6] Schedule 2, clause 2A

Insert after clause 2:

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

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(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.

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(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.

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(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.

**2.8 Occupational Health and Safety Amendment Act 1997
No 51**

Schedule 3 Consequential amendment of other Acts

Omit Schedule 3.3.

**2.9 Public Authorities (Financial Arrangements) Act 1987
No 33** 5

Schedule 1 Authorities

Omit "Electricity Transmission Authority."

Insert in alphabetical order "TransGrid (or any other energy transmission operator under the *Energy Services Corporations Act 1995*).". 10

**2.10 Public Authorities (Financial Arrangements) Regulation
1995**

Schedule 3 Part 3 Investment powers

Omit "Electricity Transmission Authority".

Insert in alphabetical order "TransGrid". 15

2.11 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit "Electricity Transmission Authority."

**2.12 Public Sector Executives Superannuation Act 1989
No 106**

Schedule 1 Additional employers

Insert in alphabetical order:

TransGrid

5

2.13 Public Sector Management Act 1988 No 33

[1] Schedule 3 Declared authorities

Omit "Electricity Transmission Authority."

[2] Schedule 3A Chief executive positions

Omit "Chief Executive of the Electricity Transmission Authority" from Part 3. 10

[3] Schedule 3B Senior executive positions

Omit all the matter relating to the Electricity Transmission Authority from Part 1.

2.14 Rural Fires Regulation 1997

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Clause 15 Eligibility for membership of Bush Fire Management Committee

Omit clause 15 (2).

2.15 Snowy Hydro Corporatisation Act 1997 No 99

Section 4 Definitions

Omit the definition of *TransGrid* from section 4 (1). Insert instead:

TransGrid means the energy transmission operator constituted by the *Energy Services Corporations Act 1995* with the corporate name of TransGrid (or, if that name is varied under that Act, the varied name). 5

2.16 State Authorities Non-contributory Superannuation Act 1987 No 212

Schedule 1 Employers 10

Omit "Electricity Transmission Authority" from Part 1.
Insert instead "TransGrid".

2.17 State Authorities Superannuation Act 1987 No 211

Schedule 1 Employers

Omit "Electricity Transmission Authority" from Part 1. 15
Insert instead "TransGrid".

2.18 Superannuation Act 1916 No 28

Schedule 3 List of employers

Omit "Electricity Transmission Authority" from Part 1. 20
Insert instead "TransGrid".

**2.19 Superannuation Administration (Electricity
Superannuation Scheme Transitional Provisions)
Regulation 1997**

Schedule 1 Transferred employers

Omit "New South Wales Electricity Transmission Authority". 5
Insert instead "TransGrid".