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New South Wales

Powerlines and Cables Undergrounding Bill 1997

Explanatory note

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

Overview of Bill

The object of this Bill is to require bodies that have powerlines and cables in built-up areas to prepare and implement programs for the laying of those lines and cables underground.

The programs are to take account of any national funding scheme for the burial of lines and cables as well as the codes, standards and strategies for their burial developed or approved by any public authority, including, for example, any national undergrounding authority.

The Bill requires the programs to be implemented in stages, with completion by 1 January 2010.

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 3 months after the date of assent, unless it is sooner commenced by proclamation.

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

Clause 4 states the object of the proposed Act.

Clause 5 requires the preparation of draft undergrounding programs for present and future powerlines and cables.

Clause 6 requires public notice of those draft programs to be given.

Clause 7 requires final versions of programs to be prepared, taking into account public comment on the drafts.

Clause 8 requires annual reports on the implementation of the programs.

Clause 9 limits the charges that bodies can make for copies of their programs and reports under the proposed Act.

Clause 10 sets out certain details relating to the application of the proposed Act.

Clause 11 requires the Director-General of the Department of Urban Affairs and Planning to review annually progress in the implementation of undergrounding programs.

Clause 12 creates offences of failing to prepare programs and of failing to implement them.

Clause 13 provides that offences are to be dealt with summarily before the Land and Environment Court.

Clause 14 enables regulations to be made for the purposes of the proposed Act.

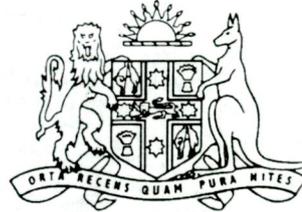


New South Wales

Powerlines and Cables Undergrounding Bill 1997

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New South Wales

Powerlines and Cables Undergrounding Bill 1997

No. , 1997

A Bill for

An Act to make provision with respect to the undergrounding of powerlines and cables.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Powerlines and Cables Undergrounding Act 1997*.

2 Commencement

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This Act commences 3 months after the date of assent, unless sooner commenced by proclamation.

3 Definitions

In this Act:

built-up area means a built-up area in New South Wales, within the meaning of section 139A of the *Roads Act 1993*. 10

Director-General means the Director-General of the Department of Urban Affairs and Planning.

electricity distributor has the same meaning as in the *Electricity Supply Act 1995*, except that it does not include the Rail Access Corporation. 15

line means:

(a) a powerline that is part of a distribution system (within the meaning of the *Electricity Supply Act 1995*) other than any such distribution system owned or controlled by the Rail Access Corporation, or 20

(b) a line that is part of a system carrying signals (for example telecommunications or broadcast signals), being a system to which the public has access whether on payment of a fee or otherwise. 25

system owner means a person that owns or controls a system of lines.

undergrounding program means a program for the laying underground of lines.

4 Object of this Act

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The object of this Act is to require electricity distributors, and other system owners, that (at any time on or after the commencement of this Act) own or control lines in built-up areas:

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- (a) to prepare programs for the coordinated laying underground of such of those lines as are above-ground lines, and for the removal of the supports of those above-ground lines, and
 - (b) to prepare programs for the coordinated laying underground of new lines, and 5
 - (c) to implement those programs in accordance with the timetables set out in this Act, and
 - (d) to ensure that the implementation of those programs causes the least possible damage to the environment and to places and items of significance to the natural and cultural heritage of New South Wales. 10

5 Draft undergrounding program

- (1) A person that owns or controls any lines in a built-up area at the commencement of this Act must prepare by 30 June 1998 a draft program for the laying underground of all lines that are owned or controlled after that date by the person in built-up areas. 15
- (2) A person that does not own or control any lines in a built-up area until after the commencement of this Act must, within 4 months after starting to own or control any lines in a built-up area, prepare a draft program for the laying underground of all lines that are owned or controlled after the last day of those 4 months by the person in built-up areas. 20
- (3) A draft undergrounding program must set out the following:
 - (a) a program for the laying underground of any lines in the owner's system that are laid after the day referred to in subsection (1) or (2) in areas that are built-up areas at the time when the lines are laid, 25
 - (b) a program for the replacement with underground lines of any above-ground lines in the owner's system that at any time after the day referred to in subsection (1) or (2) are located in areas that are built-up areas (whether or not those areas were built-up areas on that day), 30
 - (c) a program for the removal of such supports of those above-ground lines as do not support streetlights, once the lines themselves have been replaced, 35

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- (d) the means of implementing those programs,
- (e) the cost of implementing those programs,
- (f) the means of meeting that cost (including the role of any national fund for the laying of lines underground),
- (g) priorities in implementing those programs, 5
- (h) whether those programs comply with the codes, standards or strategies (if any) relating to the laying of lines underground prepared by any public authority of the State or the Commonwealth.
- (4) A draft undergrounding program must reflect, and be consistent with, the timetable set out in section 12 (2). This requirement applies to any program, including one to which subsection (2) applies. 10
- 6 Public notice of draft**
- (1) A system owner must give public notice of the preparation of a draft undergrounding program in a newspaper circulating generally in New South Wales on or within 7 days after the date by which the draft is required by section 5 to be prepared. 15
- (2) Copies of the draft must be available during normal business hours, at the office of the system owner that is in one of or nearest the local government areas to which the program relates, for a period of not less than 1 month after public notice is given. The system owner must receive comments on the draft during that period of availability and for the period of 1 month after the end of the period of availability. 20
- (3) The public notice must state (consistently with this section) where and when the copies are to be available and where and when comments on the draft may be made. 25
- (4) The system owner must make copies of the draft available for the public to inspect or obtain them during the period of availability. 30
- 7 Final version of undergrounding program**
- (1) A system owner must complete a final version of its undergrounding program within 4 months after the date by which the draft is required by section 5 to be prepared. In preparing the final version, the system owner must take into account the comments received by the system owner on the draft program. 35

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- (2) The system owner must give public notice of the completion of the final version in a newspaper circulating generally in New South Wales on or within 7 days after the date of that completion. The system owner must make copies of the program available for the public to inspect or obtain them during normal business hours at the office of the system owner that is in one of or nearest the local government areas to which the program relates. 5
- (3) The public notice must state (consistently with this section) where and when the copies are to be available.
- (4) The system owner must furnish a copy of the final version of its undergrounding program free of charge to the Director-General within 7 days after giving public notice of its completion. 10

8 Annual report on undergrounding

- (1) A system owner must prepare annual reports on progress in implementing its undergrounding program. Each report must cover the period of operation of the program from the date of completion of the final version of the program (or an anniversary of that date) to the date that is the next anniversary of that date. 15
- (2) Each report must be completed within 3 months after the end of the period which it covers. 20
- (3) The system owner must give public notice of the completion of each annual report in a newspaper circulating generally in New South Wales on or within 7 days after the date of completion. The system owner must make copies of the report available for the public to inspect or obtain them during normal business hours at the office of the system owner that is in one of or nearest the local government areas to which the program relates. 25
- (4) The public notice must state (consistently with this section) where and when the copies are to be available.
- (5) A system owner must furnish a copy of the annual report free of charge to the Director-General within 7 days after giving public notice of its completion. 30

9 Charges for copies of programs and reports

- (1) A system owner must not charge a person for inspecting a draft undergrounding program, a final undergrounding program, an annual report or a public statement required by this Act. 35

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- (2) However, a system owner may charge a person who obtains from the owner a copy of such a program, report or statement the reasonable cost of that copy.

10 Application of Act

- (1) 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. 5
- (2) This Act does not require a system owner's undergrounding program to provide for a line to be laid underground (or for an above-ground line to be replaced with an underground line and its supports removed): 10
 - (a) if it would be impracticable to do so, or
 - (b) if the line may be laid out of public view (or replaced with a line that is out of public view) by means other than undergrounding, or 15
 - (c) if to lay it underground (or to replace it with an underground line) would cause serious or irreparable damage to the environment or to places or items of significance to the natural or cultural heritage of New South Wales, or 20
 - (d) in a space or circumstance prescribed by the regulations.
- (3) However, subsection (2) (a), (b) or (c) does not apply to a line unless:
 - (a) the system owner makes a public statement setting out the reasons for the application of the paragraph to the line, and 25
 - (b) the Director-General has approved those reasons and his or her approval is set out in the statement, and
 - (c) the statement is published in the same way as public notice of the completion of the final version of an undergrounding program under section 7, and 30
 - (d) copies of the statement are made available and furnished in the same way as copies of such a program under section 7 (2) and (4).

11 Review by Director-General

The Director-General must review the implementation of the undergrounding program of a system owner within 3 months after the date by which each annual report of the system owner is required to be completed.

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12 Offences

- (1) A system owner must not fail to complete a final version of its undergrounding program, and must not fail to prepare an annual report, in accordance with this Act.

Maximum penalty: 100 penalty units.

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- (2) A system owner that owns or controls a system that fails to comply with any of the following requirements is guilty of an offence:

(a) at any time when the system owner owns or controls lines in a built-up area in the period from 1 January 2000 to 31 December 2004, not less than 20 per cent of the total length of all lines (other than lines to which section 10 (2) applies) owned or controlled by the system owner in built-up areas must be underground,

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(b) at any time when the system owner owns or controls lines in a built-up area in the period from 1 January 2005 to 31 December 2009, not less than 60 per cent of the total length of all lines (other than lines to which section 10 (2) applies) owned or controlled by the system owner in built-up areas must be underground,

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(c) on and from 1 January 2010, all of the lines (other than lines to which section 10 (2) applies) owned or controlled by the system owner in built-up areas must be underground lines.

Maximum penalty: 1,000 penalty units.

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- (3) If an above-ground line in a system in a built-up area has been replaced in accordance with a program under this Act with a line that is not an above-ground line, the system owner must remove such supports of the above-ground line as do not for the time being support streetlights.

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Maximum penalty: 1,000 penalty units.

13 Proceedings for offences

Proceedings for an offence arising under this Act may be dealt with summarily before the Land and Environment Court in its summary jurisdiction.

14 Regulations

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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 and, in particular, for or with respect to the form and content of notices, programs, reports and statements under this Act. 10