

**Electricity Supply Amendment
(Protection of Electricity Works) Bill
2006**

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Electricity Supply Act 1995* (***the Principal Act***) so as:

- (a) to protect the presence, operation and use of certain electricity works, and
- (b) to clarify the powers of a network operator with respect to the removal of dangerous structures or things from land on which certain electricity works are situated, and
- (c) to specify circumstances in which the costs of removing any dangerous structure or thing are payable by the relevant network operator, and in which the relevant network operator is liable for loss or damage suffered by the owner of any structure or thing as a result of its removal.

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 the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the *Electricity Supply Act 1995* set out in Schedule 1.

Clause 4 is a formal provision for the repeal of the proposed Act after its effect is spent.

Schedule 1 Amendments

Protection of electricity works

Schedule 1 [3] inserts proposed section 53 into the Principal Act. The new section applies to electricity works situated in, on or over land as at the commencement of the proposed Act, together with any repairs, replacements, modifications and upgrades of those works, but does not apply to works whose presence in, on or over the land is protected by a registered easement. The proposed section prevents legal action from being taken against a network operator by reason of the presence, operation or use of any such works, and states that, as between the owner of the land and the network operator, the presence, operation and use of any such works is taken to be lawful. However, the proposed section preserves any civil liability for negligence that may arise from the operation, use, maintenance, repair, replacement, modification, upgrade or removal of any such works.

Removal of dangerous structures and things

Section 49 of the Principal Act enables a network operator to take action to remove structures and things that endanger its electricity works.

Schedule 1 [2] inserts new subsections (7), (8) and (9) into section 49.

Proposed subsection (7) ensures that such action may be taken even if the works concerned are situated on land owned or occupied by the person having control of the structure or thing concerned.

Proposed subsection (8) provides that subsection (5) (which would otherwise enable a network operator to recover the cost of removing a structure or thing from the person having control of it) does not apply, in relation to certain classes of structure or thing, where the person having control of the structure or thing owns or occupies the land on which the works are situated.

Proposed subsection (9) provides that, in the circumstances in which proposed subsection (8) applies, the network operator must bear the costs of removing the structure or thing, and is liable to the owner of the structure or thing for any loss or damage suffered by the owner as a consequence of its removal.

Schedule 1 [1] substitutes section 49 (1) so as to align its wording with that of section 48 (1) (an analogous provision dealing with the hazards to electricity works that are posed by trees).

Savings and transitional provisions

Schedule 1 [4] amends clause 1 of Schedule 6 so as to enable regulations under the principal Act to make provision of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [5] inserts a new Part 7 into Schedule 6. The proposed Part contains the following clauses:

- (a) a definitions clause (**proposed clause 47**),
- (b) a clause that prevents a court that is hearing proceedings commenced before this Bill was introduced into Parliament from ordering the modification or removal of existing electricity works of the kind to which proposed section 53 applies (**proposed clause 48**),
- (c) a clause that applies proposed section 53 to legal proceedings commenced after this Bill was introduced into Parliament, so precluding any action based on the presence, operation or use of existing electricity works of the kind to which proposed section 53 applies (**proposed clause 49**).