

## **Energy Administration Amendment (Water and Energy Savings) Bill 2005**

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

### Overview of Bill

The objects of this Bill are:

(a) to amend the *Energy Administration Act 1987*:

(i) to rename the Act as the *Energy and Utilities Administration Act 1987*,  
and

(ii) to establish both an Energy Savings Fund and a Water Savings Fund,  
and

(iii) to enable the Minister to require certain State agencies that provide  
water or energy services to make contributions to the relevant Fund, and

(iv) to make it clear that the Minister may require the Independent Pricing  
and Regulatory Tribunal to take into account contributions that Sydney  
Water Corporation and other State water agencies are required to make  
to the Water Savings Fund in making pricing determinations for the  
provision of their water services, and

(v) to require certain persons and bodies to prepare plans that set out  
measures to save water and energy, and

(vi) to enable the Minister to establish advisory committees for the purpose  
of advising the Minister on the exercise of functions to be conferred on  
the Minister by the proposed Act, and

(vii) to enable the Minister to require certain water and energy service  
providers to provide information to the Minister about the identity of  
persons and bodies to which the providers provide water or energy  
services, and

(viii) to enact provisions relating to the service of documents, the delegation  
of functions and the liability of persons involved in or concerned in the  
management of corporations for offences committed by corporations,  
and

(ix) to enact provisions of a savings or transitional nature, and

(b) to make consequential amendments to the *Electricity Supply Act 1995* to  
enable the regulations under that Act to provide for the cost of contributions  
made by distribution network service providers to the Energy Savings Fund to  
be passed through to retail customers of electricity, and

(c) to make further consequential amendments to other Acts and Regulations.

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 that gives effect to the amendments to the *Energy  
Administration Act 1987* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to other Acts and  
Regulations set out in Schedule 2.

### **Schedule 1 Amendment of Energy Administration Act 1987**

**Schedule 1 [1]** amends section 1 of the *Energy Administration Act 1987* (**the Act**) to  
rename the Act as the *Energy and Utilities Administration Act 1987*.

**Schedule 1 [2]** inserts certain definitions in section 3 of the Act for terms that are  
used in provisions to be inserted by the proposed Act. In particular, the following  
terms are defined:

**State agency** is defined to mean:

- (a) a public or local authority constituted by or under an Act (including a local council), or
- (b) a Government Department, or
- (c) a statutory body representing the Crown, or
- (d) a State owned corporation (including any subsidiary of a State owned corporation) within the meaning of the *State Owned Corporations Act 1989*.

**State water agency** is defined to mean:

- (a) Sydney Water Corporation, or
- (b) any other State agency prescribed by the regulations that provides any water service in a water savings area.

The term **water savings area** is defined to mean:

- (a) the area of operations of Sydney Water Corporation, or
- (b) any other area or areas of the State prescribed by the regulations for the purposes of the definition.

**Schedule 1 [3]** amends section 3 of the Act to provide that notes included in the Act are not to be treated as forming part of the Act.

**Schedule 1 [4] and [5]** amend section 5 of the Act to make it clear that the objects of the Act are not confined to matters relating to energy, but will also extend to matters relating to water following the amendments to be made by the proposed Act.

**Schedule 1 [6]** omits an obsolete provision dealing with the establishment of the Department of Energy (now called the Department of Energy, Utilities and Sustainability).

**Schedule 1 [7]** inserts proposed Part 6A (Water and energy savings) in the Act. The proposed Part contains the following provisions:

**Division 1 (proposed sections 34A–34D)**

Proposed section 34A provides that following persons and bodies are **designated water users** for the purposes of the proposed Part:

- (a) any local council that has all or part of its local government area located within a water savings area,
- (b) any other person or body (or person or body belonging to a class of persons or bodies) prescribed by a savings order made under proposed section 34D that uses water in a water savings area.

Proposed section 34B provides that following persons and bodies are **designated energy users** for the purposes of the proposed Part:

- (a) any State agency,
- (b) any other person or body (or person or body belonging to a class of persons or bodies) prescribed by a savings order made under proposed section 34D that uses energy.

Proposed section 34C enables a savings order made under proposed section 34D to exempt specified persons and bodies (or specified classes of persons and bodies) from any or all of the provisions of proposed Part 6A or the regulations relating to designated water users or designated energy users (or both).

Proposed section 34D enables the Minister, by order published in the Gazette, to make provision for any matter that is required or permitted to be prescribed or otherwise dealt with by a savings order. Any such order will need to be tabled in Parliament and will be disallowable in the same way as a statutory rule.

**Division 2 (proposed sections 34E–34J)**

Proposed section 34E establishes the Water Savings Fund.

Proposed section 34F sets out the purposes of the Water Savings Fund.

Proposed section 34G specifies what money must be, or may be, paid into the Water Savings Fund.

Proposed section 34H specifies when money can be paid out of the Water Savings Fund. In particular, it provides that money may be paid out of the Fund with the approval of the Minister to fund all or any part of the cost of any water savings

measure that the Minister is satisfied promotes a purpose of the Fund.

Proposed section 34I enables the Minister to invest money that is held in the Water Savings Fund.

Proposed section 34J enables the Minister, by order published in the Gazette, to require any one or more State water agencies to make annual contributions for a specified financial year to the Water Savings Fund. The proposed section also makes it clear that the Minister may require the Independent Pricing and Regulatory Tribunal to take into account contributions that a State water agency is required to make to the Fund in making pricing determinations for the provision of its water services.

### **Division 3 (proposed sections 34K–34P)**

Proposed section 34K establishes the Energy Savings Fund.

Proposed section 34L sets out the purposes of the Energy Savings Fund.

Proposed section 34M specifies what money must be, or may be, paid into the Energy Savings Fund.

Proposed section 34N specifies when money can be paid out of the Energy Savings Fund. In particular, it provides that money may be paid out of the Fund with the approval of the Minister to fund all or any part of the cost of any energy savings measure that the Minister is satisfied promotes a purpose of the Fund.

Proposed section 34O enables the Minister to invest money that is held in the Energy Savings Fund.

Proposed section 34P enables the Minister, by order published in the Gazette, to require any one or more distribution network service providers (within the meaning of the *Electricity Supply Act 1995*) to make annual contributions for a specified financial year to the Fund.

### **Division 4 (proposed sections 34Q–34V)**

Proposed section 34Q requires designated water users and designated energy users to prepare draft water savings action plans and draft energy savings action plans respectively and to submit those plans to the Minister for approval.

Proposed section 34R specifies the matters that must be set out in a draft water savings action plan or draft energy savings action plan. The proposed section also enables the Minister to issue guidelines concerning the preparation of such plans.

Proposed section 34S enables the Minister to approve savings action plans (whether with or without alterations).

Proposed section 34T provides that an approved savings action plan has effect for a period of 4 years.

Proposed section 34U provides for the amendment, replacement and revocation of approved savings action plans.

Proposed section 34V makes it an offence for a designated water user or designated energy user not to prepare and submit a savings action plan in accordance with the provisions of the Division. The maximum penalty for such an offence will be 50 penalty units (currently, \$5,500). However, nothing in the Division will require a designated water user or designated energy user to implement any savings measures specified in a savings action plan submitted by the user and approved under the Division unless the regulations so provide.

### **Division 5 (proposed section 34W)**

Proposed section 34W enables the Minister to establish standing or special committees for the purpose of advising the Minister on the exercise of the Minister's functions under the proposed Part.

**Schedule 1 [8] and [9]** amend section 40 of the Act to enable the Minister to require certain water and energy service providers to provide information to the Minister about the identity of persons and bodies to which the providers provide water or energy services. The amended section will also provide that the disclosure of such information will not expose a water or energy service provider to civil liability of any

kind.

**Schedule 1 [10]** amends section 41 (Disclosure of information) of the Act to make it clear that nothing in that section or any other Act or law prevents the Minister from disclosing information about the identity of energy and water users given to the Minister under section 40 (as amended by Schedule 1 [8] and [9]) where that information is provided to indicate why persons or bodies have been, or are to be, prescribed as designated water users or designated energy users by a savings order.

**Schedule 1 [11]** inserts section 43A in the Act to make provision for how documents are to be served for the purposes of the proposed Act.

**Schedule 1 [12]** re-enacts section 45 of the Act to enable the Minister, as well as the Energy Corporation of New South Wales (the **Corporation**) and the Director-General of the Department of Energy, Utilities and Sustainability (the **Director-General**), to delegate his or her functions under the Act.

**Schedule 1 [13]** amends section 46A of the Act (which is to be inserted in the Act by the *Electricity (Consumer Safety) Act 2004*) to enable the Director-General, as well as the Corporation, to authorise persons to issue penalty notices under that section.

**Schedule 1 [14]** inserts section 47A in the Act. The new section provides that if a corporation contravenes any provision of the Act or the regulations, each director or other person concerned in the management of the corporation is also taken to have contravened the provision if the director or person knowingly authorised or permitted the contravention.

**Schedule 1 [15]** amends clause 1 of Schedule 2 to the Act to enable the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

**Schedule 1 [16]** inserts a new Part in Schedule 2 to the Act which contains provisions of a savings or transitional nature.

#### **Schedule 2 Consequential amendment of other Acts and Regulations**

**Schedule 2.4** amends the *Electricity Supply Act 1995*:

(a) to enable regulations made under that Act to make provision for contributions that distribution network service providers are required to make to the Energy Savings Fund to be passed through to retail customers of electricity, and

(b) to enable the Governor to make regulations of a savings or transitional nature consequent on the amendment of that Act by the proposed Act.

**Schedule 2.1–2.3 and 2.5–2.10** make amendments to other Acts and Regulations that are consequential on the renaming of the *Energy Administration Act 1987* as the *Energy and Utilities Administration Act 1987*.