



New South Wales

Electricity Supply Amendment (Emergency Management) Bill 2017

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*) to provide for streamlined emergency management powers in the event of an electricity supply emergency in the State. Under the scheme provided by the proposed Act:

- (a) the Premier will be able to declare an electricity supply emergency if satisfied that the supply of electricity to all or any part of the State is significantly disrupted or that there is a real risk that electricity supply may be significantly disrupted, and
- (b) the Minister administering the principal Act (the *Minister*) will, while the declaration by the Premier of an electricity supply emergency is in force, be able to give directions that are reasonably necessary to respond to the emergency (including restricting electricity use and shutting down plant or equipment), and
- (c) the Minister will also be able to require information to be provided in connection with an electricity supply emergency (whether or not a declared emergency), including for the purposes of determining whether the supply of electricity has been or is likely to be disrupted and for preparing and planning responses to any future electricity supply emergency, and
- (d) authorised officers appointed by the Minister will have power to enter premises and carry out investigations to determine whether a direction by the Minister has been complied with.

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.

Schedule 1 Amendment of Electricity Supply Act 1995

Schedule 1 [1] and [2] ensure that the long title of the principal Act and its objects reflect the amendments made by the proposed Act by referring to the management of electricity supply emergencies.

Schedule 1 [3] inserts proposed Part 7A into the principal Act as follows:

Proposed section 94A authorises the Premier, by order in writing, to declare an electricity supply emergency if satisfied that the supply of electricity to all or any part of the State is significantly disrupted or that there is a real risk that electricity supply may be significantly disrupted. The declaration of an electricity supply emergency remains in force for the period specified in the declaration or until such time as the declaration is revoked by the Premier. Any such declaration or revocation must be made public and published in the Gazette or on the NSW legislation website.

Proposed section 94B authorises the Minister, while the declaration of an electricity supply emergency is in force, to give directions that are reasonably necessary to respond to the emergency. The directions that may be given include restricting electricity use and requiring large users of electricity to shut down any plant or equipment. In giving a direction, the Minister is to endeavour to act in a way that complements, and is not inconsistent with, the operation and administration of the national electricity market within the meaning of the *National Electricity (NSW) Law*.

Proposed section 94C makes it an offence to fail to comply with an electricity supply emergency direction given under proposed section 94B. The requirement to comply with such a direction has effect despite any other Act or law.

Proposed section 94D enables the Minister, by notice in writing given to a person, to require the person to provide information in connection with electricity supply emergencies (whether or not an emergency has been declared by the Premier). The information required to be provided may include information about the location and operational status of electricity infrastructure (such as poles and wires and transmission substations) and non-electricity infrastructure (such as gas pipelines, data storage or server facilities and telecommunications towers) as well as any information about works or facilities that may be relevant to the supply of electricity in an emergency. It will be an offence to fail to comply with a notice to provide information.

Proposed section 94E authorises the Minister to divulge to certain persons information that has been provided to the Minister in accordance with a notice under proposed section 94D. The proposed section also enables the Minister to prohibit or restrict the disclosure of confidential information that has been divulged by the Minister.

Proposed section 94F provides that a person is not excused from the requirement to provide information under proposed section 94D on the ground that the information might incriminate the person.

Proposed section 94G provides for the appointment by the Minister of authorised officers for the purposes of the proposed Part.

Proposed section 94H confers powers on authorised officers, which include the power to enter premises for the purposes of determining whether there has been a failure to comply with a direction by the Minister under proposed section 94B and power to carry out inspections on those premises. It will be an offence to prevent an authorised officer from exercising his or her functions or to hinder or obstruct an authorised officer.

Proposed section 94I excludes the Minister, an authorised officer or any person acting under the direction of the Minister from personal liability for anything done under proposed Part 7A.

Schedule 1 [4] provides that compensation is not payable by the State in connection with the enactment, making or operation of proposed Part 7A.

Schedule 1 [5] provides that the Minister is not authorised to delegate the power to give directions under proposed section 94B.

Schedule 1 [6] enables the Minister to delegate other functions of the Minister under the principal Act to any Public Service employee.

Schedule 1 [7] provides that the definition of *authorised officer* for the purposes of the principal Act does not apply to authorised officers appointed by the Minister under proposed Part 7A.

Schedule 2 Amendment of Energy and Utilities Administration Act 1987

Schedule 2 provides that the emergency provisions under the *Energy and Utilities Administration Act 1987* (including the making of regulations to control, restrict or prohibit the sale, supply, use or consumption of forms of energy) do not apply in respect of electricity.