

**LEGISLATIVE COUNCIL**

**Electricity Network Assets (Authorised Transactions) Bill 2015**

**First print**

**Proposed amendments**

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No. 1      **Authorisation for transfer of electricity network assets**

Page 4. Clause 5 (1). Insert after line 6:

- (b) there must be no provision for any payment by the lessor of network infrastructure assets to the lessee on expiry of the lease,

No. 2      **Authorisation for transfer of electricity network assets**

Page 4. Clause 5 (1). Insert after line 9:

- (c) any option to renew a lease of network infrastructure assets to the private sector is subject to the following requirements:
  - (i) there must be fresh consideration for the renewal of the lease,
  - (ii) the Treasurer must make details of any proposed renewal publicly available at least 3 months before the renewal of the lease.

No. 3      **Electricity price guarantee by authorised network operator**

Page 5. Clause 8 (1) (a), lines 38–40. Omit all words on those lines. Insert instead:

- (a) the network operator's total network charges for each financial year until (and including) the financial year ending 30 June 2019 will be lower than for the preceding financial year, and

No. 4      **Electricity price guarantee—report of Price Commissioner**

Page 6. Clause 8 (2). Insert after line 8:

- (b) a report, for each proposed transaction, as to each factor that may reasonably bear on putting upward pressure on network charges and the likelihood of those factors, separately or in combination, resulting in an increase in network charges,

No. 5      **Electricity price guarantee—referral by Price Commissioner**

Page 6. Clause 8. Insert after line 11:

- (3) The Price Commissioner may refer any matters of concern regarding the activities or behaviour of any authorised network operator to the Australian Competition and Consumer Commission.

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No. 6      **No review of AER final determination**

Page 6. Insert after line 35:

**9      No review of certain AER final determination**

- (1) An interested party must not bring or maintain any challenge against any determination of the AER published on 30 April 2015 in respect of Endeavour Energy, Ausgrid or TransGrid that seeks higher revenue for the interested party.
- (2) In this section, *interested party* means Networks NSW, Endeavour Energy, Ausgrid and TransGrid.

No. 7      **Independent review of Deloitte Access Economics report**

Page 6. Insert after line 35:

**9      Independent review**

- (1) The Treasurer must commission and publish an independent review of the Deloitte Access Economics report entitled “Economic Impact of State Infrastructure Strategy—Rebuilding NSW” published in November 2014.
- (2) The Treasurer must commission and publish an independent analysis of the impact of the authorised transactions on the State Budget.
- (3) The Treasurer must commission and publish an independent analysis of the impact of any authorised transactions entered into, and the collective impact of one or more such authorised transactions entered into, on the State Budget on each of the following dates:
  - (a) one year after the relevant transaction, or the last of the relevant transactions, was entered into,
  - (b) 5 years after the relevant transaction, or the last of the relevant transactions, was entered into,
  - (c) 10 years after the relevant transaction, or the last of the relevant transactions, was entered into.
- (4) The Treasurer must commission and publish an independent review, including consultation with stakeholders, of the powers of the NSW Electricity Price Commissioner engaged under section 8 within 12 months of the completion of the first authorised transaction.

No. 8      **Manner of effecting authorised transaction**

Page 8. Clause 12. Insert after line 19:

- (5) The Treasurer must publish a report on the proposed structure and governance arrangements for an authorised transaction at least 3 months before completion of the authorised transaction.

No. 9      **Transfer of staff to private sector employment—employment guarantee**

Page 11, clause 19, lines 21–29. Omit all words on those lines. Insert instead:

**19      Transfers to private sector employment**

- (1) The Treasurer may, for the purposes of an authorised transaction, by order in writing transfer the employment of a networks employee (a *transferred employee*) to the employment of a private sector entity (the *new employer*).
- (2) A transfer of employment under this section requires the consent of the networks employee transferred.
- (3) The employment of a transferred employee with the new employer is to be on the same terms and conditions as applied to the employee as a networks

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employee immediately before the transfer of employment, until those terms and conditions are varied in accordance with law.

- (4) The employment of a transferred employee with the new employer is to be on terms and conditions, for at least the employment guarantee period for the transferred employee, that are at least as favourable as those that applied to the employee as a networks employee immediately before the transfer of employment.
- (5) The employment of a transferred employee with the new employer cannot be terminated by the new employer during any employment guarantee period for the transferred employee, except:
  - (a) for serious misconduct, or
  - (b) pursuant to the proper application of reasonable disciplinary procedures, or
  - (c) by agreement with the employee.

For the purposes of this subsection, the termination of employment of a transferred employee includes the transfer of the employee from employment in a regional or rural location of the State to another location without the consent of the employee.

- (6) A transferred employee has an ***employment guarantee period*** of 5 years (starting on the employee's transfer date) but only if the transferred employee was a networks employee on the date of introduction into Parliament of the Bill for this Act and was on that date:
  - (a) a permanent employee, or
  - (b) a casual employee, or
  - (c) a temporary employee.

In the case of a transferred employee who is a temporary employee whose existing term of employment would otherwise expire during that period of 5 years, the employment guarantee period of that temporary employee is the balance of the term of his or her employment on the employee's transfer date.

**Note.** There is no employment guarantee period for contract employees. The employment of a transferred employee who is a contract employee remains governed by the contract of employment.

- (8) The Treasurer is to take all reasonable steps to ensure that at least 50 apprenticeships are maintained in the electricity distribution or transmission business of each authorised network operator in NSW for at least 5 years after the completion of the authorised transaction for the business.
- (9) In this section:

***casual employee*** means an employee whose employment is in a category of employment that is described in or classified under a relevant award as casual employment or who is otherwise engaged as a casual employee.

***contract employee*** means an employee whose terms and conditions of employment are provided by an individual contract and not by a relevant award.

***permanent employee*** means an employee whose employment is of indefinite duration and who is not a casual employee, temporary employee or contract employee.

***relevant award*** means any award, agreement or other industrial instrument (under a law of the State or the Commonwealth) that provides for the terms and conditions of employment of employees.

***temporary employee*** means an employee (other than a casual employee or contract employee) whose employment is in a category of employment that is described in or classified under a relevant award as temporary employment or

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whose employment is, under the terms of his or her employment, for a limited period.

**transfer date** of a transferred employee means the date on which the employment of the transferred employee is transferred under this section to the new employer.

No. 10      **Transfer payments**

Page 12. Insert after line 26:

**21    Payments to employees leaving public sector employment**

- (1) The Treasurer (or another public sector agency designated by the Treasurer) is required to enter into agreements or other arrangements with respect to the making of transfer payments to networks employees in connection with the transfer under this Part of the employment of those employees to the employment of a private sector entity.
- (2) A transfer payment is an amount equivalent to:
  - (a) if the employee has at least 1 year of service but less than 2 years— 7.5 weeks of the employee’s salary, or
  - (b) if the employee has at least 2 years of service but less than 3 years— 13.125 weeks of the employee’s salary, or
  - (c) if the employee has at least 3 years of service but less than 4 years— 18.75 weeks of the employee’s salary, or
  - (d) if the employee has at least 4 years of service but less than 5 years— 22.25 weeks of the employee’s salary, or
  - (e) if the employee has at least 5 years of service but less than 6 years— 26.25 weeks of the employee’s salary, or
  - (f) if the employee has at least 6 or more years of service—30 weeks of the employee’s salary, plus an additional 1 week of the employee’s salary for each completed year of service exceeding 6 years.
- (3) A transfer payment is in addition to any other payment to which the person is entitled.
- (4) In this section, **salary** does not include allowances.

No. 11      **Operation of other laws and entitlements regarding employment**

Page 12, clause 21 (b), line 33. Insert “unless the new employment does not constitute adequate alternative employment within the public sector or with a private sector employer” after “agency”.

No. 12      **Operation of other laws and entitlements regarding employment**

Page 12, clause 21 (c), line 34. Insert “except as provided by paragraph (b),” before “the person”.

No. 13      **Transfer payments**

Page 12, clause 21 (c), line 36. Insert “(but without affecting any entitlement to a transfer payment under section 21)” after “transfer”.

No. 14      **Operation of other laws and entitlements regarding employment**

Page 12, clause 21 (d), line 39. Insert “unless there is no payment to a new employer to meet all outstanding accumulated entitlements in respect of a particular employee” after “long service leave”.

No. 15      **Licensing**

Page 19, clause 36. Insert after line 23:

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- (3) The Minister must publish the terms and conditions of any licence proposed to be granted in accordance with the Treasurer's request at least 3 months before the proposed licence is granted.

No. 16 **Coastal protection—concurrence required**

Page 20, clause 40, lines 26–28. Omit all words on those lines.

No. 17 **Step-in rights**

Page 60, Schedule 7.7 [19], clause 76B (1). Insert after line 16:

- (b) the Minister is satisfied that the network operator has contravened the terms of any lease or other arrangement for the purposes of an authorised transaction, or

No. 18 **Step-in rights**

Page 60, Schedule 7.7 [19], clause 76B (1) (b), lines 19 and 20. Omit “and the contravention requires the issue of a Network Administration Order”.

No. 19 **Step-in rights**

Page 60, Schedule 7.7 [19], clause 76B (2), lines 22 and 23. Omit “is considered to require”.  
Insert instead “requires”.

No. 20 **Public access to government information**

Page 75, Schedule 7.14, lines 35–44. Omit all words on those lines. Insert instead:

**Section 4 Interpretation**

Insert after paragraph (g) of the definition of *agency* in section 4 (1):

- (h) an authorised network operator under the *Electricity Network Assets (Authorised Transactions) Act 2015*.