

SYDNEY ELECTRICITY ACT 1990 No. 117

NEW SOUTH WALES



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SYDNEY ELECTRICITY ACT 1990 No. 117

NEW SOUTH WALES



Act No. 117, 1990

An Act to constitute a body corporate named Sydney Electricity and to specify its functions; to dissolve the Sydney County Council; and to make consequential amendments to certain Acts. [Assented to 18 December 1990]

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the Sydney Electricity Act 1990.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. (1) In this Act:

"Sydney Electricity" means the body corporate constituted by this Act;

"Sydney Electricity District" means the district comprised as described in Schedule 1.

- (2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

PART 2 - CONSTITUTION OF SYDNEY ELECTRICITY

Constitution of Sydney Electricity

4. (1) There is constituted by this Act a body corporate with the corporate name of Sydney Electricity.

(2) Sydney Electricity is, for the purposes of any Act, a statutory body representing the Crown.

PART 3 - FUNCTIONS OF SYDNEY ELECTRICITY

Principal functions of Sydney Electricity

5. (1) Sydney Electricity has the following functions:

- (a) the purchase, supply and distribution of electricity;
- (b) the provision and maintenance of works for the supply of electricity;

- (c) the development, manufacture and supply of electrical fittings and appliances;
- (d) the protection of the public from dangers arising from the transmission, distribution and use of electricity;
- (e) the promotion of the safe and efficient use of electricity and electrical fittings and appliances;
- (f) the promotion of energy conservation and of measures to increase the efficiency of energy transmission and use.

(2) Sydney Electricity has such other functions as are conferred or imposed on it by or under any other law.

Ancillary functions of Sydney Electricity

6. (1) In the exercise of its functions under section 5, Sydney Electricity may:

- (a) conduct any business and, for that purpose, use any property or the services of any staff of Sydney Electricity; and
- (b) acquire land, develop land and dispose of land; and
- (c) acquire or build, and maintain and dispose of, any buildings, plant, machinery, equipment or vehicles; and
- (d) make and enter into contracts or arrangements for the carrying out of works or the performance of services or the supply of goods or materials; and
- (e) make charges and impose fees for services performed and goods and materials supplied by it; and
- (f) appoint agents, and act as agents for other persons.

(2) Sydney Electricity may do all such things as are supplemental or incidental to, or consequential on, the exercise of its other functions.

(3) Sydney Electricity may exercise its functions within the Sydney Electricity District and, with the approval of the Minister, outside the Sydney Electricity District.

Delegation of functions

7. (1) Sydney Electricity may delegate to an authorised person any of its functions, other than this power of delegation.

(2) A delegate may sub-delegate to an authorised person any function delegated by Sydney Electricity if the delegate is authorised in writing to do so by Sydney Electricity.

(3) In this section, "**authorised person**" means:

- (a) a member of staff of Sydney Electricity or any other person of whose services Sydney Electricity makes use; or
- (b) a person of a class prescribed by the regulations or of a class approved by the directors of Sydney Electricity.

PART 4 - THE MINISTER AND THE DIRECTORS OF SYDNEY ELECTRICITY

Directors of Sydney Electricity

8. (1) There are to be 10 directors of Sydney Electricity.

(2) The directors are to comprise:

- (a) 5 directors elected in accordance with this Act; and
- (b) 5 directors appointed by the Minister, 1 of whom is to be a staff elected director who is elected in the manner prescribed by regulations made for the purpose of clause 5 of Schedule 2.

(3) The persons appointed as directors by the Minister (other than the staff elected director) must have such managerial, commercial, financial, legal or other qualifications as the Minister considers appropriate to enable the directors to carry out their functions.

(4) Of the directors:

- (a) one is to be appointed by the Minister, by instrument in writing, as Chairperson of Sydney Electricity; and
- (b) one may be appointed by the Minister as Deputy Chairperson of Sydney Electricity.

(5) Schedule 2 has effect with respect to the directors of Sydney Electricity.

(6) Schedule 3 has effect with respect to meetings of the directors of Sydney Electricity.

Directors to determine policies of Sydney Electricity etc.

9. (1) The directors of Sydney Electricity have the function of determining the policies of Sydney Electricity.

(2) In determining those policies, the directors must, as far as practicable, ensure that the activities of Sydney Electricity are carried out properly and efficiently and in accordance with sound commercial practice.

Ministerial control

10. (1) The Minister may give the directors of Sydney Electricity written directions in relation to the exercise of Sydney Electricity's functions.

(2) Subject to this section, the directors of Sydney Electricity and the Chief Executive of Sydney Electricity must ensure that Sydney Electricity complies with any such direction.

(3) If the directors of Sydney Electricity consider that:

- (a) Sydney Electricity would suffer a significant financial loss as a result of complying with the direction; and
- (b) the direction is not in the commercial interests of Sydney Electricity,

the directors may request the Minister to review the direction.

(4) A request for a review is to contain an estimate of the financial loss the directors consider Sydney Electricity would suffer and must be made within 7 days after the direction is given or within such other reasonable period as the Minister determines.

(5) If the directors request a review, Sydney Electricity is not required to comply with the direction until notified of the Minister's decision following the review.

(6) Following the review, the Minister may confirm or revoke the direction.

(7) For the purposes of this section, the amount of the financial loss that Sydney Electricity suffers as a result of complying with a direction includes the amount of expenditure that Sydney Electricity incurs, and the amount of revenue that Sydney Electricity forgoes, as a result of complying with the direction which it would not otherwise incur or forgo.

(8) Subsection (3) does not apply to the following directions:

- (a) a direction under section 15 (2) (a) of the Electricity Act 1945;
- (b) a direction given in relation to a requirement of the Treasurer under section 59B of the Public Finance and Audit Act 1983.

Sydney Electricity to supply information to Minister

11. Sydney Electricity must:

- (a) supply the Minister or a person nominated by the Minister with such information relating to its activities as the Minister or person may require; and
- (b) keep the Minister informed of the general conduct of its activities, and of any significant development in its activities.

Corporate plans

12. (1) Sydney Electricity is required to prepare and deliver to the Minister, at least 3 months before the beginning of each financial year of Sydney Electricity, a draft corporate plan for the financial year.

(2) Sydney Electricity must:

- (a) consider any comments on the draft corporate plan that are made by the Minister within 2 months after the draft plan is delivered to the Minister; and
- (b) deliver the completed corporate plan to the Minister before the beginning of the financial year concerned.

(3) Sydney Electricity must, as far as practicable, exercise its functions in accordance with the relevant corporate plan.

(4) A corporate plan must specify:

- (a) the separate business activities of Sydney Electricity; and
- (b) the objectives of each such separate activity for the financial year concerned and for the following 2 financial years (or such other number of financial years as the Minister directs); and
- (c) the strategies, policies and budgets for achieving those objectives; and
- (d) targets and criteria for assessing the performance of Sydney Electricity.

(5) This section is subject to the requirements of any direction of the Minister under section 10.

Performance agreements

13. (1) The Minister and Sydney Electricity may, after consultation between them, enter into a performance agreement.

(2) A performance agreement is to set operational performance targets for Sydney Electricity in the exercise of specified functions during a financial year and is to provide for the evaluation and review of results in relation to those targets.

(3) Sydney Electricity must, as far as practicable, exercise its functions in accordance with the performance agreement.

(4) The results of Sydney Electricity's performance under a performance agreement during a financial year are to be included in Sydney Electricity's annual report relating to that year.

PART 5 - THE CHIEF EXECUTIVE OF SYDNEY ELECTRICITY

Chief Executive of Sydney Electricity

14. (1) The Governor may appoint a Chief Executive of Sydney Electricity.

(2) Before a person is appointed as Chief Executive, the Minister must give the directors of Sydney Electricity the opportunity to recommend any one or more persons for appointment.

(3) The employment of the Chief Executive is subject to Part 2A of the Public Sector Management Act 1988, but is not subject to Part 2 of that Act.

(4) The Minister may, from time to time, appoint a person to act in the office of the Chief Executive during the illness or absence of the Chief Executive (or during a vacancy in the office of Chief Executive) and the person, while so acting, has all the functions of the Chief Executive and is taken to be the Chief Executive.

(5) The Minister may, at any time, remove a person from office as acting Chief Executive.

(6) An acting Chief Executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(7) A director is not to be appointed as Chief Executive or acting Chief Executive.

Chief Executive to manage and control affairs of Sydney Electricity

15. (1) The affairs of Sydney Electricity are to be managed and controlled by the Chief Executive of Sydney Electricity in accordance with the policies of the directors of Sydney Electricity.

(2) Any act, matter or thing done in the name of, or on behalf of, Sydney Electricity by the Chief Executive of Sydney Electricity is taken to have been done by Sydney Electricity.

Right of Chief Executive to attend meetings of directors

16. (1) The Chief Executive is entitled to attend and to participate in discussions at meetings of the directors of Sydney Electricity but is not entitled to vote at any such meeting.

(2) The Chief Executive (or acting Chief Executive) must not, without the consent of the directors, be present at a meeting of the directors during the discussion and determination of a matter relating to the Chief Executive or the office of the Chief Executive.

PART 6 - STAFF

Employment of staff

17. Sydney Electricity may employ such staff as it requires to exercise its functions.

Salary, conditions etc. of staff

18. Sydney Electricity may determine salary, wages and conditions of employment of its staff in so far as they are not determined by or under any other Act or law.

Regulations relating to staff

19. (1) The regulations may make provision for or with respect to the employment of the staff of Sydney Electricity, including the conditions of employment and the discipline of any such staff.

(2) Any such regulations relating to the conditions of employment or the discipline of staff:

- (a) have effect subject to any relevant award made by a competent industrial tribunal and to any industrial agreement to which Sydney Electricity is a party, and

- (b) have effect despite any determination of Sydney Electricity under section 18; and
- (c) have effect subject to Part 2A of the Public Sector Management Act 1988.

Use of staff or facilities of departments etc.

20. Sydney Electricity may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a government department, an administrative office or a public or local authority.

Consultants

21. Sydney Electricity may engage such consultants as it requires to exercise its functions.

PART 7 - FINANCE

Establishment of funds

22. Sydney Electricity is required to establish the following funds:
- (a) a fund to be known as the Sydney Electricity General Fund;
 - (b) a fund to be known as the Sydney Electricity Trust Fund.

Sydney Electricity General Fund

23. (1) There is to be paid into the Sydney Electricity General Fund:
- (a) all money received by or on account of Sydney Electricity, other than money that is required to be paid into the Sydney Electricity Trust Fund; and
 - (b) all interest and other amounts received in respect of the investment of money belonging to the General Fund; and
 - (c) all money borrowed by or advanced to Sydney Electricity or appropriated by Parliament for the purposes of Sydney Electricity; and
 - (d) all money required to be paid into the General Fund by or under this or any other Act.
- (2) There may be paid from the Sydney Electricity General Fund:
- (a) the remuneration (including allowances) of the directors and staff of Sydney Electricity; and

- (b) all payments made on account of Sydney Electricity or otherwise required to meet expenditure incurred in relation to the functions of Sydney Electricity; and
- (c) all other payments required by or under this or any other Act to be paid from the General Fund.

Sydney Electricity Trust Fund

- 24. (1)** There is to be paid into the Sydney Electricity Trust Fund:
- (a) all money held by Sydney Electricity by way of deposit for any person (including deposits paid to secure a supply of electricity); and
 - (b) all money held by Sydney Electricity in the capacity of trustee; and
 - (c) all money required to be paid into the Trust Fund by or under this or any other Act.
- (2)** There may be paid from the Sydney Electricity Trust Fund:
- (a) repayments of deposits referred to in subsection (1) (a); and
 - (b) payments of money made in accordance with the trusts on which the money is held; and
 - (c) all other payments required by or under this or any other Act to be paid from the Trust Fund.

Sydney Electricity dividend contributions to Consolidated Fund

25. (1) Sydney Electricity must pay to the Treasurer for payment into the Consolidated Fund, by way of dividend contribution in respect of each financial year of Sydney Electricity, such amount as may be determined by the Treasurer.

- (2)** The amount so determined is to be paid from:
- (a) the profits (if any) derived in the financial year concerned from the exercise by Sydney Electricity of its functions; or
 - (b) the accumulated reserves of Sydney Electricity derived from the exercise of its functions.
- (3)** The Treasurer must consult the Minister and Sydney Electricity in connection with any determination to be made by the Treasurer under this section.
- (4)** This section applies in relation to such financial year of Sydney Electricity as the Treasurer determines.

(5) Nothing in this section affects section 59B of the Public Finance and Audit Act 1983.

Payment of amounts under sec. 25

26. (1) An amount payable by Sydney Electricity under section 25 is to be paid in such instalments and at such times as are determined by the Treasurer and notified in writing to Sydney Electricity.

(2) The Treasurer may, by notice in writing given to Sydney Electricity, advise that in relation to any specified financial year it need not make a payment required by section 25 or that it is required to make only a specified proportion of that payment.

Investment

27. Sydney Electricity may invest money held by it:

- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) if that Act does not confer power to invest money held by Sydney Electricity:
 - (i) in any manner authorised for the time being for the investment of trust funds; or
 - (ii) in any other manner approved by the Minister with the concurrence of the Treasurer.

Banking

28. All money received on account of the Sydney Electricity General Fund or the Sydney Electricity Trust Fund is to be paid into a bank or banks in New South Wales.

Financial year

29. (1) The financial year of Sydney Electricity is the year commencing on 1 July.

(2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

PART 8 - ENTRY AND INSPECTION

Definition

30. In this Part, "authorised person" means a person authorised for the purposes of a provision of this Act by Sydney Electricity.

Authorised persons

31. (1) Sydney Electricity may authorise a person to exercise any function conferred or imposed under any provision of this Act.

(2) Sydney Electricity is required to issue to an authorised person a certificate of authority in a form approved by Sydney Electricity.

(3) An authorised person exercising or proposing to exercise a function conferred or imposed under any provision of this Act on or in any land or building must, on request, produce the person's certificate of authority to a person apparently in charge there.

Power of entry

32. For the purposes of, and subject to this Act and the regulations, an authorised person may enter on any land or buildings at all reasonable hours for the purposes of:

- (a) installing, removing, reading or adjusting any electricity metering equipment or other property of Sydney Electricity; or
- (b) checking if Sydney Electricity's conditions relating to tariffs and to the use of electricity are being complied with.

Notice of entry

33. (1) Before an authorised person enters any land or building under a power conferred by this Part, the Chief Executive or an authorised person must serve on the owner or occupier of the land or building notice in writing of the intention to enter the land or building on a day specified in the notice.

- (2) This section does not require notice to be given:
 - (a) if entry to any land or building is made with the consent of the owner or occupier of the land or building; or
 - (b) if entry is required urgently and the case is one in which the Chief Executive has authorised in writing (either generally or in the particular case) entry without notice; or

- (c) if entry is made solely for the purpose of reading an electricity meter.

Use of force

34. (1) Reasonable force may be used for the purpose of gaining entry to any land or building (other than any part used for residential purposes) under a power conferred by this Part.

(2) The authority conferred by this section to use reasonable force must not be exercised in any case unless the Chief Executive has authorised in writing (either generally or in the particular case) the use of force in the circumstances of the case.

(3) Any general authority for the use of force given by the Chief Executive must specify the circumstances which are required to exist before force may be used.

Notification of use of force or entry without notice

35. If an authorised person:

- (a) uses force for the purpose of gaining entry to any land or building; or
- (b) enters any land or building and notice under section 33 of intention to enter was not served on the owner or occupier of the land or building,

the Chief Executive or an authorised person must promptly cause notice in writing to that effect to be served on such persons or authorities as appear to the Chief Executive or authorised person to be appropriate in the circumstances.

Exercise of functions

36. In the exercise of a function conferred or imposed by this Part, an authorised person must:

- (a) do as little damage as possible; and
- (b) provide, if necessary, other means of access or temporary works or structures in place of any taken away or interrupted by it.

Recovery of costs of entry and inspection

37. If an authorised person enters any land or building under this Part for the purpose of making an inspection and as a result of that inspection, under a power conferred on the authorised person by or

under this Act, work is required to be carried out on or in connection with any electric line or any property or works of Sydney Electricity on or in the land or building, Sydney Electricity may recover the reasonable costs of the entry and inspection from the owner or occupier of the land or building.

Compensation

38. (1) Sydney Electricity must compensate all interested parties for any damage caused by it under this Part, other than damage arising from work done for the purpose of an inspection.

(2) In the case of land of which temporary possession has been taken or use made, the compensation may be a gross sum or a rent.

Discontinuance of supply following refusal of access or obstruction

39. (1) If, after production of a written authority issued by Sydney Electricity to an authorised person, any person:

- (a) refuses or fails to give the authorised person access at any reasonable time to any premises supplied with electricity by Sydney Electricity for the purpose of installing, removing, examining, reading or adjusting any electricity metering equipment or for the purpose of checking if Sydney Electricity's conditions relating to tariffs and to the use of electricity are being complied with; or
- (b) obstructs the authorised person in relation to any act, matter or thing done or to be done in carrying out those purposes,

Sydney Electricity may, without prejudice to any other remedy, discontinue the supply of electricity to the premises until such time as such access is given or such obstruction is terminated.

(2) Sydney Electricity is not liable for any loss or damage suffered by any person as a consequence of discontinuing a supply of electricity under this section.

PART 9 - MISCELLANEOUS

Resumption etc. of land

40. (1) For the purposes of this Act, the Governor may, on the recommendation of the Minister, resume or appropriate any land under Division 1 of Part 5 of the Public Works Act 1912.

(2) A resumption or appropriation effected under this section is taken to be for an authorised work within the meaning of the Public Works Act 1912 and the Minister is, in relation to that authorised work, taken to be the Constructing Authority within the meaning of that Act.

(3) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not, but section 38 of that Act does, apply in relation to a resumption or appropriation under this section.

Discontinuance of supply for failure to pay

41. (1) If a person fails to pay an amount to Sydney Electricity for electricity supplied by it, Sydney Electricity may, after giving the person reasonable notice of its intention to do so, discontinue the supply of electricity to the person until the amount, together with any expenses incurred by Sydney Electricity in discontinuing the supply, are paid.

(2) Sydney Electricity is not liable for any loss or damage suffered by any person as a consequence of discontinuing a supply of electricity under this section.

Power to break up roads etc.

42. (1) Sydney Electricity may, on giving the prescribed notices:

(a) open and break up:

(i) the soil and pavement of a public road or public reserve; and

(ii) any thing in or under a public road or public reserve; and

(b) place structures on, over or beneath a public road or public reserve; and

(c) erect an electric line or other thing relating to a supply of electricity on, over or beneath a public road or public reserve,

for the purpose of exercising its functions.

(2) The statutory body having the control and management of a public road or public reserve may, in accordance with any regulations, require Sydney Electricity to comply with conditions in exercising its powers under subsection (1), including conditions for restoration of the surface and removal of rubbish.

(3) If Sydney Electricity fails to comply with a condition in force under subsection (2), the statutory body affected by the failure may

remedy it and recover the cost of doing so as a debt owed to the statutory body by Sydney Electricity.

Altering position of conduit of another authority

43. (1) If:

- (a) Sydney Electricity, in order to exercise its functions, needs an alteration to be made in the position of a conduit owned by another person; and
- (b) the alteration would not permanently damage the conduit or adversely affect its operation,

Sydney Electricity may serve on the person a written notice that complies with subsection (2).

(2) A notice must:

- (a) specify the alteration needed; and
- (b) require the alteration to be made within a reasonable time stated in the notice; and
- (c) include an undertaking by Sydney Electricity to pay the reasonable cost of the alteration.

(3) If the alteration is not made as required by the notice, Sydney Electricity may make the alteration in such a manner as not to damage the conduit permanently or adversely affect its operation on completion of the alteration.

(4) In this section, "**conduit**" means anything that is in or under a public road or public reserve and is used for the conveyance of a substance, energy or signals.

Obstruction of works

44. (1) If a person places a structure or other thing in or near a work of Sydney Electricity in such a manner as to interfere with or damage the work, Sydney Electricity may:

- (a) demolish and remove the structure or other thing; and
- (b) repair the work; and
- (c) recover the cost of doing so as a debt owing to Sydney Electricity by the person who placed the structure or other thing there.

(2) Sydney Electricity may apply for an injunction to prevent a structure or other thing being placed as referred to in this section.

Sydney Electricity's fittings not to be taken in execution

45. (1) If any electric line, meter, fitting, insulator, apparatus or work of Sydney Electricity is placed in or on any place or building (not being in the possession of Sydney Electricity) for the purpose of supplying electricity, it is not to be taken in execution under any process of a court of law or equity.

(2) This section does not affect any execution lawfully issued against Sydney Electricity.

Waiver or refund of charges etc. by Sydney Electricity

46. Sydney Electricity may waive or refund the whole or any part of any charge, fee or money due to Sydney Electricity in any particular case or in any class of cases.

Presumption of validity

47. The exercise of a function by Sydney Electricity or a delegate of Sydney Electricity is not invalidated because it is exercised in contravention of a direction by the Minister.

Personal liability of the directors etc.

48. A matter or thing done or omitted by Sydney Electricity, a director of Sydney Electricity, the Chief Executive or any person acting under the direction of Sydney Electricity, the directors or the Chief Executive does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act, subject the director, the Chief Executive or a person so acting personally to any action, liability, claim or demand.

Seal of Sydney Electricity

49. The seal of Sydney Electricity is to be kept by the Chief Executive and may be affixed to a document only:

- (a) in the presence of the Chairperson (or a person authorised for that purpose by the Chairperson) and the Chief Executive (or a person authorised for that purpose by the Chief Executive); and
- (b) with an attestation by the signature of the Chief Executive or that member of the fact of the affixing of the seal.

Service of documents on Sydney Electricity

50. (1) A document may be served on Sydney Electricity by leaving it at, or by sending it by post to:

- (a) the office of Sydney Electricity; or
- (b) if it has more than one office - any one of its offices.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on Sydney Electricity in any other manner.

Recovery of charges etc. by Sydney Electricity

51. Any charge, fee or money due to Sydney Electricity may be recovered by Sydney Electricity as a debt in a court of competent jurisdiction.

Proceedings for offences

52. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Regulations

53. (1) 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.

(2) Without limiting the generality of subsection (1), the regulations may make provision for or with respect to the following:

- (a) the appointment of deputies of directors;
- (b) the supply, distribution and use of electricity within the Sydney Electricity District;
- (c) charges for electricity;
- (d) fees and service charges;
- (e) the payment of charges for electricity and of fees and service charges;
- (f) the payment of interest on unpaid amounts due to Sydney Electricity;
- (g) offences relating to the supply and use of electricity and any works or property of Sydney Electricity;

- (h) requiring the carrying out of work to remove a danger or to remedy a defect relating to the supply, distribution or use of electricity within the Sydney Electricity District;
 - (i) the opening of the surface of roads;
 - (j) the application to Sydney Electricity, with or without modification, of a specified provision of the Local Government Act 1919 or of any ordinance made under that Act.
- (3) A regulation may create an offence punishable by a penalty not exceeding:
- (a) 200 penalty units in the case of a corporation; or
 - (b) 100 penalty units in any other case.

Repeal of Sydney County Council (Elections) Act 1968 No. 68

54. The Sydney County Council (Elections) Act 1968 is repealed.

Repeal of certain statutory rules

55. (1) Ordinance No. 20A (Sydney County Council - Elections) made under the Local Government Act 1919 is repealed.

(2) The regulation under the Gas Act 1986 relating to the preparation of estimates and budget meeting of the Sydney County Council is repealed.

Amendment of Acts

56. The Acts specified in Schedule 4 are amended in the manner set out in that Schedule.

Savings, transitional and other provisions

57. Schedule 5 has effect.

SCHEDULE 1 - SYDNEY ELECTRICITY DISTRICT

(Sec. 3 (1))

The Sydney Electricity District comprises the following 5 Electricity Supply Districts:

SCHEDULE 1 - SYDNEY ELECTRICITY DISTRICT - *continued*

1. The City and Eastern Electricity Supply District comprising the following local government areas:
 - City of Sydney
 - City of South Sydney
 - Municipality of Botany
 - City of Randwick
 - Municipality of Waverley
 - Municipality of Woollahra

2. The Southern Electricity Supply District comprising the following local government areas:
 - Shire of Sutherland
 - City of Hurstville
 - Municipality of Kogarah
 - Municipality of Rockdale
 - Municipality of Canterbury

3. The Central Sydney Electricity Supply District comprising the following local government areas:
 - Municipality of Auburn
 - Municipality of Concord
 - Municipality of Drummoyne
 - Municipality of Ashfield
 - Municipality of Burwood
 - Municipality of Strathfield
 - City of Bankstown
 - Municipality of Leichhardt
 - Municipality of Marrickville

4. The North Shore Electricity Supply District comprising the following local government areas:
 - Municipality of Ryde
 - Municipality of Hunters Hill
 - Municipality of Lane Cove
 - Municipality of North Sydney
 - City of Willoughby
 - Municipality of Mosman
 - Municipality of Manly
 - Shire of Warringah

SCHEDULE 1 - SYDNEY ELECTRICITY DISTRICT - *continued*

5. The Berowra-Central Coast Electricity Supply District comprising the following local government areas:

Shire of Wyong
City of Gosford
Shire of Hornsby
Municipality of Ku-ring-gai

SCHEDULE 2 - THE DIRECTORS OF SYDNEY ELECTRICITY

(Sec. 8 (5))

Definitions

1. In this Schedule:

"**appointed director**" means a director appointed by the Minister under section 8 (2) (b);

"**director**" means any director of Sydney Electricity;

"**elected director**" means a director elected as referred to in section 8 (2) (a);

"**Electricity Supply District**" means an Electricity Supply District specified in Schedule 1.

Elected directors

2. (1) There is to be one elected director for each Electricity Supply District.

(2) The elected director for an Electricity Supply District is to be elected by the members for the time being of the councils of the local government areas which comprise the Electricity Supply District.

(3) A person is eligible to be elected as a director if the person is a member of a council of a local government area within the Electricity Supply District for which the director is to be elected.

(4) In electing an elected director for an Electricity Supply District, the voters must have regard to such managerial, commercial, financial, legal or other qualifications of the candidate as will enable the candidate to carry out the functions of a director.

SCHEDULE 2 - THE DIRECTORS OF SYDNEY
ELECTRICITY - *continued*

Conduct of elections

3. (1) An election of an elected director is to be held as soon as practicable (but, in any event, within 3 months) after the ordinary election of members of the councils of the local government areas within the Electricity Supply District concerned.

(2) An election is to be conducted by the Electoral Commissioner in accordance with the regulations.

(3) The regulations are to provide for:

(a) voting to be conducted by postal ballot; and

(b) voting to be not compulsory; and

(c) the adoption of preferential voting; and

(d) such other matters as may be necessary or convenient for the conduct of an election.

Effect of failure to elect director

4. If no director is elected for an Electricity Supply District within 3 months after:

(a) an ordinary election of members of the councils of local government areas within the Electricity Supply District; or

(b) the occurrence of a vacancy in the office of an elected director, the Minister may appoint as an elected director a person who is qualified for appointment under section 8.

Staff elected director

5. (1) Regulations may be made for or with respect to the election of a person to hold office as a staff elected director.

(2) The Electoral Commissioner, or a person employed in the office of and nominated by the Electoral Commissioner, is to be the returning officer for an election, and has the functions conferred or imposed on the returning officer by the regulations made under this clause in relation to the election.

(3) Full-time employees of Sydney Electricity are entitled to vote at an election in accordance with the regulations made under this clause for the staff elected director.

SCHEDULE 2 - THE DIRECTORS OF SYDNEY
ELECTRICITY - *continued*

(4) A person's nomination as a candidate for election as the staff elected director is invalid if:

- (a) the nomination is not made by at least 2 persons who are full-time employees of Sydney Electricity; or
- (b) the person is not, at the time of nomination, a full-time employee of Sydney Electricity.

(5) A person may be, at the same time, both the elected staff member and an employee of Sydney Electricity.

(6) Nothing in any law, rule, direction or other requirement that:

- (a) is applicable to the staff elected director in his or her capacity as an employee of Sydney Electricity; and
- (b) would not be applicable if the staff elected director were not such an employee,

operates so as to prevent or restrict the exercise by the staff elected director of any of the functions of a staff elected director.

(7) If no person is nominated at an election, or if for any other reason an election fails, the Minister may appoint a person eligible for election to be an appointed member, and the person, on being appointed, is to be taken to be a person elected in the manner prescribed by the regulations made for the purposes of this clause.

(8) If a vacancy occurs in the office of staff elected director otherwise than by reason of the expiration of the period for which the staff elected director was appointed:

- (a) the Minister may appoint a person eligible for election to hold, subject to this Schedule, the office of staff elected director for a term commencing on the date of appointment or a later date specified in the relevant instrument of appointment and ending on the commencement of the term of office of the next staff elected director; and
- (b) the person is, on being so appointed, to be taken to be a person elected in the manner prescribed by the regulations made for the purposes of this clause.

(9) The Minister may, pending the election of the first staff elected director after the constitution of Sydney Electricity:

**SCHEDULE 2 - THE DIRECTORS OF SYDNEY
ELECTRICITY - *continued***

- (a) appoint any person as the staff elected director to hold, subject to this Schedule, the office of staff elected director until the election of that member and the person is, on being so appointed, to be taken to be a person elected in the manner prescribed by the regulations made for the purposes of this clause; or
- (b) appoint the other directors and leave the office of staff elected director vacant pending the election of that director.

Means of effecting appointment of appointed director as Chairperson and Deputy Chairperson

6. If a person who is appointed a director by the Minister is appointed as Chairperson or Deputy Chairperson of Sydney Electricity, the person's appointment as Chairperson or Deputy Chairperson may be effected in and by the person's instrument of appointment as a director or in and by another instrument executed by the Minister.

Chairperson of Sydney Electricity

7. (1) The Minister may remove a director from the office of Chairperson or Deputy Chairperson of Sydney Electricity at any time.

(2) A person who is a director and Chairperson or Deputy Chairperson of Sydney Electricity vacates office as Chairperson or Deputy Chairperson if the person:

- (a) is removed from that office by the Minister; or
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to be a director.

Terms of office of directors

8. (1) Subject to this Schedule, an elected director holds office until the director's successor is elected.

(2) Subject to this Schedule, an appointed director holds office for such period (not exceeding 4 years) as may be specified in the

**SCHEDULE 2 - THE DIRECTORS OF SYDNEY
ELECTRICITY - *continued***

director's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

9. A director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the director.

Vacancy in office of directors

10. (1) The office of a director becomes vacant if the director:

- (a) dies; or
- (b) completes a term of office and is not re-elected or re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) is removed from office by the Minister under this clause or by the Governor under Part 8 of the Public Sector Management Act 1988; or
- (e) is absent from 4 consecutive meetings of directors of which reasonable notice has been given to the director personally or in the ordinary course of post, except on leave granted by the directors or unless, before the expiration of 4 weeks after the last of those meetings, the director is excused by the other directors for having been absent from those meetings; or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (g) becomes a mentally incapacitated person; or
- (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable; or
- (i) in the case of an elected director (other than the staff elected director), ceases to be a member of a council of a local

SCHEDULE 2 - THE DIRECTORS OF SYDNEY
ELECTRICITY - *continued*

government area within the Electricity Supply District for which the director is elected; or

- (j) in the case of the staff elected director, ceases to be a full-time employee of Sydney Electricity.

(2) The Minister may remove an elected or appointed director from office for incapacity, incompetence or misbehaviour.

Disclosure of pecuniary interests

11. (1) If:

- (a) a director has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the directors; and
- (b) the interest appears to raise a conflict with the proper performance of the director's duties in relation to the consideration of the matter,

the director must, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the directors.

(2) A disclosure by a director at a meeting of the directors that the director:

- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause are to be recorded by the directors in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the directors.

SCHEDULE 2 - THE DIRECTORS OF SYDNEY
ELECTRICITY - *continued*

(4) After a director has disclosed the nature of an interest in any matter, the director must not, unless the Minister or the other directors otherwise determine:

- (a) be present during any deliberation of the directors with respect to the matter; or
- (b) take part in any decision of the directors with respect to the matter.

(5) For the purposes of the making of a determination by the directors under subclause (4), a director who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the other directors for the purpose of making the determination; or
- (b) take part in the making by the other directors of the determination.

(6) A contravention of this clause does not invalidate any decision of the directors.

(7) This clause does not apply to or in respect of an interest of a director (being the provision of goods or services to or in respect of the director by Sydney Electricity) if the goods or services are, or are to be, available to members of the public on the same terms and conditions.

Filling of vacancy in office of director

12. (1) If the office of an elected director becomes vacant:

- (a) within a period of 9 months before the date of the next ordinary election of members of councils of local government areas - the vacancy is to be filled by the appointment by the Minister of a person who is qualified for appointment as an appointed director; or
- (b) at any other time - the vacancy is to be filled at an election in accordance with this Schedule to be held as soon as practicable (but, in any event, within 3 months) after the vacancy occurred.

(2) The Minister may appoint a person who is qualified for appointment under section 8 to act in the office of an elected director during any period for which that office would otherwise be vacant.

**SCHEDULE 2 - THE DIRECTORS OF SYDNEY
ELECTRICITY - *continued***

(3) A person appointed under subclause (2) is, while acting in the office, taken to be an elected director.

(4) If the office of any appointed director becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Effect of certain other Acts

13. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of an appointed director.

(2) If by or under any Act provision is made:

(a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office;
or

(b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of director or from accepting and retaining any remuneration payable to the person under this Act as a director.

(3) The office of director is not, for the purposes of any Act, an office or place of profit under the Crown.

**SCHEDULE 3 - MEETINGS OF THE DIRECTORS OF SYDNEY
ELECTRICITY**

(Sec. 8 (6))

General procedure

1. The procedure for the calling of meetings of directors and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the directors.

Quorum

2. The quorum for a meeting of directors is 6 directors.

**SCHEDULE 3 - MEETINGS OF THE DIRECTORS OF
SYDNEY ELECTRICITY - *continued***

Presiding member

3. (1) The Chairperson of Sydney Electricity or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the directors.

(2) If the Chairperson and the Deputy Chairperson are both absent, another director elected to chair the meeting by the directors present is to preside at a meeting of the directors.

(3) The person presiding at any meeting of the directors has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

4. A decision supported by a majority of the votes cast at a meeting of the directors at which a quorum is present is the decision of the directors.

Transaction of business outside meetings or by telephone etc.

5. (1) The directors may, if they think fit, transact any of their business by the circulation of papers among all the directors of Sydney Electricity for the time being, and a resolution in writing approved in writing by a majority of those directors is taken to be a decision of the directors.

(2) The directors may, if they think fit, transact any of their business at a meeting at which directors (or some directors) participate by telephone, closed-circuit television or other means, but only if any director who speaks on a matter before the meeting can be heard by the other directors.

(3) For the purposes of:

(a) the approval of a resolution under subclause (1); or

(b) a meeting held in accordance with subclause (2),

the Chairperson and each director have the same voting rights they have at an ordinary meeting of the directors.

**SCHEDULE 3 - MEETINGS OF THE DIRECTORS OF
SYDNEY ELECTRICITY - *continued***

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of directors.

(5) Papers may be circulated among directors for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

First meeting

6. The Minister is to call the first meeting of the directors in such manner as the Minister thinks fit.

SCHEDULE 4 - AMENDMENT OF ACTS

(Sec. 56)

Electricity Act 1945 (1946 No. 13)

(1) Section 4 (**Definitions**):

(a) In the definition of "Council" in section 4 (1), after "that Act", insert "and Sydney Electricity".

(b) Insert in section 4 (1), in alphabetical order:

"County district" includes the Sydney Electricity District within the meaning of the Sydney Electricity Act 1990.

(2) Section 5 (**Constitution of the Electricity Council**):

(a) Omit section 5 (4) (a) (i).

(b) From section 5 (4) (e), omit "and".

(c) At the end of section 5 (4) (f), insert:

; and

(g) the Chairperson and Chief Executive of Sydney Electricity,

SCHEDULE 4 - AMENDMENT OF ACTS - *continued*

- (3) Section 7A (**Appointment of government representatives to electricity councils**):

From section 7A (1) (a), omit "the Sydney County Council".

- (4) Part 2B, Division 2 (**Sydney County Council**):

Omit the Division.

- (5) Section 7V:

After section 7U, insert:

Division not to apply to Sydney Electricity

7V. This Division does not apply to Sydney Electricity.

- (6) Section 14F (**Payment of subsidies for pensioner rebates out of Electricity Development Fund**):

From section 14F (1), omit "the Sydney County Council", insert instead "Sydney Electricity".

- (7) Schedule 5 (**Areas which constitute the Sydney County District**) and Schedule 6 (**Delegates to the Sydney County Council**):

Omit the Schedules.

Electricity Commission Act 1950 No. 22

- (1) Section 3 (**Definitions**):

(a) From the definition of "Council" in section 3 (1) omit "the Sydney County Council", insert instead "Sydney Electricity".

(b) After section 3 (4), insert:

(5) In this Act, a reference to the area of a council includes, in the case of Sydney Electricity, a reference to the Sydney Electricity District within the meaning of the Sydney Electricity Act 1990.

SCHEDULE 4 - AMENDMENT OF ACTS - *continued*

- (2) **Section 8 (Particular powers in certain cases):**
 - (a) From section 8 (1), omit "the Sydney County Council", insert instead "Sydney Electricity".
 - (b) From section 8 (3) and (4), omit "General Manager of the Sydney County Council" wherever occurring, insert instead "Chief Executive of Sydney Electricity".
- (3) **Part 4, Division 2 (Sydney County Council):**

Omit the Division.
- (4) **Part 6, Division 1 (Transfer of officers to the Commission):**

Omit the Division.

Government and Related Employees Appeal Tribunal Act 1980 No. 39

Schedule 4 (Employing Authorities):

Insert, in alphabetical order:

Sydney Electricity.

Local Government Act 1919 No. 41

- (1) **Section 99 (Inquiry before dismissal of certain employees):**

From section 99 (1), omit "(including the Sydney County Council)".
- (2) **Section 171 (Annual charge on rails, pipes etc.):**

Omit section 171 (6).

Local Government Associations Incorporation Act 1974 No. 20

Section 5 (Members of corporation):

At the end of section 5, insert:

- (2) A reference in this section to county councils includes a reference to Sydney Electricity.

SCHEDULE 4 - AMENDMENT OF ACTS - *continued*

Public Authorities (Financial Arrangements) Act 1987 No. 33

Schedule 1 (Authorities):

- (a) Omit "Sydney County Council."
- (b) Insert, in alphabetical order:
Sydney Electricity.

Public Finance and Audit Act 1983 No. 152

Schedule 2 (Statutory Bodies):

- (a) Omit "Sydney County Council."
- (b) Insert, in alphabetical order:
Sydney Electricity.

Public Sector Management Act 1988 No. 33

Schedule 3 (Declared Authorities):

- Insert, in alphabetical order:
Sydney Electricity.

State Authorities Non-contributory Superannuation Act 1987 No. 212

Schedule 1 (Employers):

- At the end of Part 1, insert:
Sydney Electricity

State Authorities Superannuation Act 1987 No. 211

Schedule 1 (Employers):

- At the end of Part 1, insert:
Sydney Electricity

Superannuation Act 1916 No. 28

Schedule 3:

- At the end of the Schedule, insert:
Sydney Electricity.

SCHEDULE 4 - AMENDMENT OF ACTS - *continued*

Unclaimed Money Act 1982 No. 174

Section 3 (Definitions):

From paragraph (g) of the definition of "business" in section 3 (1), omit ", and the Sydney County Council constituted under the Electricity (Special Provisions) Act 1935".

SCHEDULE 5 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 57)

PART 1 - PRELIMINARY

Definition

1. In this Schedule, "appointed day" means the day appointed for the commencement of section 4.

Savings and transitional regulations

2. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

SCHEDULE 5 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

PART 2 - PROVISIONS CONSEQUENT ON ENACTMENT OF THIS ACT

Dissolution of the Sydney County Council

3. On the appointed day, the Sydney County Council is dissolved.

Transfer of assets, rights and liabilities

4. (1) On the appointed day, the following provisions have effect:

- (a) the assets of the Sydney County Council vest in Sydney Electricity by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance;
- (b) the rights and liabilities of the Sydney County Council become by virtue of this clause the rights and liabilities of Sydney Electricity;
- (c) all proceedings commenced before the appointed day by or against the Sydney County Council and pending immediately before the appointed day are taken to be proceedings pending by or against Sydney Electricity;
- (d) any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the Sydney County Council is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of Sydney Electricity.

(2) The operation of this clause is not to be regarded:

- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or
- (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.

(3) No attornment to Sydney Electricity by a lessee from the Sydney County Council is required.

SCHEDULE 5 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

Existing councillors of the Sydney County Council

5. (1) A person who, immediately before the appointed day, held office as a councillor of the Sydney County Council:

- (a) ceases to hold that office; and
- (b) is eligible (if otherwise qualified) to be elected or appointed as a director of Sydney Electricity.

(2) A person who so ceases to hold office as a councillor of the Sydney County Council is not entitled to any remuneration or compensation because of the loss of that office.

Existing General Manager of the Sydney County Council

6. (1) A person who, immediately before the appointed day, held office as General Manager of the Sydney County Council:

- (a) ceases to hold that office; and
- (b) except as provided by this clause, is not entitled to any remuneration or compensation because of the loss of that office.

(2) The General Manager of the Sydney County Council is taken to have been appointed under section 14 (4) as acting Chief Executive until the Chief Executive is appointed or until removed from office under section 14 (5).

(3) If the General Manager of the Sydney County Council is not appointed as the Chief Executive of Sydney Electricity with effect from the appointed day, the General Manager is, on the day on which the Chief Executive is appointed or on the day on which the General Manager (as acting Chief Executive) is removed from office under section 14 (5), whichever is the earlier, entitled to compensation in accordance with Part 8 of the Public Sector Management Act 1988 as if removed from office under that Part.

Continuity of staff of Sydney County Council

7. (1) The persons who were, immediately before the appointed day, members of staff of the Sydney County Council are taken to be members of staff of Sydney Electricity employed under this Act.

SCHEDULE 5 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

(2) Subject to this Schedule, any such members of staff are (until other provision is duly made) to be employed in accordance with the awards, industrial agreements and determinations, and at the rates of pay, applying to them immediately before the appointed day as members of staff of the Sydney County Council.

(3) Members of staff to whom this clause applies are entitled to any accrued sick, recreational or extended leave (or any other leave or entitlement prescribed by the regulations) not taken before the appointed day.

Cessation of application of the Local Government Act 1919

8. (1) Subject to the regulations, the provisions of the Local Government Act 1919 and the ordinances made under that Act relating to:

- (a) county councils; and
 - (b) the production and supply of electricity,
- do not apply to or in respect of Sydney Electricity.

(2) The provisions of the Local Government Act 1919 and the ordinances made under that Act relating to the employment of persons by a county council do not apply to a person employed under this Act, except as provided by this section.

(3) Section 99 of the Local Government Act 1919 continues to apply to a person who, immediately before the appointed day, was an employee of the Sydney County Council and who was the subject of an inquiry, or suspended, under that section.

Superseded references

9. On and from the appointed day, a reference (other than a reference prescribed by the regulations) in any other Act, in any instrument made under any Act or in any document of any kind:

- (a) to the Sydney County Council is taken to be a reference to Sydney Electricity, or
- (b) the chairman of the Sydney County Council is taken to be a reference to the Chairperson of Sydney Electricity, or

SCHEDULE 5 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

- (c) to a delegate to the Sydney County Council is taken to be a reference to a director of Sydney Electricity; or
- (d) to the general manager of the Sydney County Council is taken to be a reference to the Chief Executive of Sydney Electricity.

Elected directors

10. (1) Until the first election of a director for an Electricity Supply District is conducted in accordance with this Act, each director referred to in section 8 (2) (a) is to be a person appointed by the Minister for the Electricity Supply District from among the persons who held office as councillors of the Sydney County Council immediately before the appointed day.

(2) The provisions of this Act relating to the appointment and office of a director appointed under section 8 (2) (b) apply to and in respect of the appointment and office of a person appointed under this clause.

(3) A person appointed under this clause holds office, subject to this Act, until the first election under this Act of a director for the Electricity Supply District for which the person was appointed.

Existing resumptions and appropriations

11. A resumption or appropriation of land, and the assessment and payment of compensation relating to the resumption or appropriation, which was commenced before the appointed day by or on behalf of the Sydney County Council is to be completed or otherwise dealt with by or on behalf of Sydney Electricity in accordance with the law applicable immediately before the appointed day to the resumption or appropriation.

[*Minister's second reading speech made in -
Legislative Assembly on 28 November 1990
Legislative Council on 29 November 1990*]

THE UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

OFFICE OF THE ASSISTANT ATTORNEY GENERAL
WASHINGTON, D. C.

TO THE HONORABLE SECRETARY OF THE INTERIOR
WASHINGTON, D. C.

FROM THE ASSISTANT ATTORNEY GENERAL
WASHINGTON, D. C.

RE: [Illegible text]

Very respectfully,
[Illegible Signature]

BY [Illegible Name]
[Illegible Title]



FIRST PRINT

SYDNEY ELECTRICITY BILL 1990

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to abolish the Sydney County Council and to constitute in its place a body corporate to be known as Sydney Electricity. The powers, authorities, duties and functions of Sydney Electricity are specified in the proposed Act rather than being derived from the Local Government Act 1919.

The policies of Sydney Electricity are to be determined by 9 directors, 5 of whom are to be elected from among the members of local government councils within the Sydney Electricity District and 4 of whom are to be appointed by the Minister.

Sydney Electricity is to be managed by a Chief Executive.

Provision is made in the proposed Act enabling the Minister to give directions to the directors concerning the exercise of Sydney Electricity's functions and requiring the directors and the Chief Executive to comply with any such direction.

Sydney Electricity is required to prepare a corporate plan for each financial year and may also be required to enter into performance agreements.

The proposed Act provides for the staff of Sydney Electricity, specifies the financial provisions that are to apply to Sydney Electricity and enacts other miscellaneous provisions.

PART 1 - PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a proclaimed day or days.

Sydney Electricity 1990

Clause 3 defines expressions used in the proposed Act.

PART 2 - CONSTITUTION OF SYDNEY ELECTRICITY

Clause 4 constitutes Sydney Electricity as a statutory body representing the Crown.

PART 3 - FUNCTIONS OF SYDNEY ELECTRICITY

Clause 5 states the principal functions of Sydney Electricity (including the purchase and supply of electricity and the development, manufacture and supply of electrical fittings and appliances).

Clause 6 confers miscellaneous powers and functions on Sydney Electricity. In particular, Sydney Electricity is authorised to conduct any business in order to utilise its staff and facilities.

Clause 7 authorises the delegation of the functions of Sydney Electricity to authorised persons.

PART 4 - THE MINISTER AND THE DIRECTORS OF SYDNEY ELECTRICITY

Clause 8 makes provision concerning the directors of Sydney Electricity. There are to be 9 directors, 5 of whom are to be elected by the members of local government councils within the Sydney Electricity District and 4 of whom are to be appointed by the Minister. Of the directors, one is to be appointed by the Minister as Chairperson of Sydney Electricity and the Minister may appoint another director as Deputy Chairperson.

Clause 9 provides that the function of the directors is to determine the policies of Sydney Electricity.

Clause 10 deals with Ministerial control of Sydney Electricity. Under the clause, the Minister may give the directors of Sydney Electricity written directions in relation to the exercise of Sydney Electricity's functions. The directors may request the Minister to review the direction if they consider that Sydney Electricity would suffer a significant financial loss as a result of complying with the direction. After review, the Minister may confirm or revoke the direction.

Clause 11 requires Sydney Electricity to supply the Minister with relevant information relating to its activities.

Clause 12 makes provision for the preparation and annual review of a corporate plan for Sydney Electricity. Under the clause:

- (a) Sydney Electricity is required each year to prepare a corporate plan having regard to such comments as the Minister may make on the draft plan;
- (b) Sydney Electricity is required to exercise its functions, as far as practicable, in accordance with the plan; and
- (c) the plan is to specify objectives, policies etc. to achieve those objectives and criteria to assess its performance.

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Clause 13 provides that, in addition to or in accordance with the provisions of a corporate plan, the Minister may require Sydney Electricity to enter into a performance agreement which sets operational performance targets and provides for evaluation and review.

PART 5 - THE CHIEF EXECUTIVE OF SYDNEY ELECTRICITY

Clause 14 provides for the appointment of a Chief Executive and an acting Chief Executive of Sydney Electricity. The Chief Executive is to be appointed by the Governor after the directors of Sydney Electricity have been given an opportunity to recommend a person or persons for appointment.

Clause 15 provides for the affairs of Sydney Electricity to be managed and controlled by the Chief Executive in accordance with the policies of the directors.

Clause 16 gives the Chief Executive the right to attend and participate in meetings of directors but not to vote.

PART 6 - STAFF

Clause 17 authorises Sydney Electricity to employ necessary staff. The staff are not employed under the Public Sector Management Act 1988.

Clause 18 authorises Sydney Electricity to fix the salary, wages and conditions of its staff (subject to any other Act or law). (Sydney Electricity is made a declared authority by amendment of the Public Sector Management Act 1988. This will not cause the staff of Sydney Electricity to become public servants but it will apply to Sydney Electricity provisions which will enable governmental supervision of its general industrial relations policy and its general administration.)

Clause 19 authorises regulations to be made with respect to the employment of the staff of Sydney Electricity. The regulations are to be subject to any industrial award or agreement in connection with conditions of employment.

Clause 20 authorises Sydney Electricity to arrange for the use of the staff and facilities of government departments and of public or local authorities.

Clause 21 enables Sydney Electricity to engage consultants.

PART 7 - FINANCE

Clause 22 requires Sydney Electricity to establish funds to be known as the Sydney Electricity General Fund and the Sydney Electricity Trust Fund.

Clause 23 provides for the making of payments to and from the General Fund.

Clause 24 provides for the making of payments to and from the Trust Fund.

Clause 25 enables the Treasurer to direct the payment by Sydney Electricity into the Consolidated Fund by way of dividend of amounts determined by the Treasurer from the profits and accumulated reserves of Sydney Electricity.

Clause 26 provides for the manner of payment, and the possible waiver or reduction by the Treasurer, of amounts payable under clause 25.

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Clause 27 authorises Sydney Electricity to invest money held by it.

Clause 28 provides that all money received on account of the Fund is to be paid into a bank in New South Wales.

Clause 29 provides for the financial year of Sydney Electricity.

PART 8 - ENTRY AND INSPECTION

Clause 30 contains a definition of "authorised person" for the purposes of the proposed Part.

Clause 31 provides for the authorisation by Sydney Electricity of persons to carry out functions under the proposed Act. An authorised person is to be furnished with a certificate of authority and is required to produce the certificate if requested to do so by a person whose land or building has been entered by the authorised person.

Clause 32 provides that an authorised person may enter land or buildings at all reasonable hours for purposes such as installing or reading metering equipment and checking if conditions relating to tariffs and the use of electricity are being complied with.

Clause 33 requires that, before entering land or a building, the Chief Executive or an authorised person must serve a notice of intention to enter on the owner or occupier. Notice is not required if the owner or occupier has given consent to the entry, if the entry is required urgently or if the entry is solely for the purpose of reading an electricity meter.

Clause 34 authorises the use of reasonable force to gain entry but only if the Chief Executive has given authority in writing to the use of force in the circumstances.

Clause 35 requires the Chief Executive or an authorised officer to give notice to the appropriate person or authority if force is used to gain entry without prior notice being given.

Clause 36 requires an authorised officer to do as little damage as possible when entering and, if necessary, to provide other means of access or temporary works or structures in place of any taken away or interrupted by it.

Clause 37 sets out the circumstances in which Sydney Electricity may recover the costs of entry and inspection from the owner or occupier (for example, if as a result of the inspection, Sydney Electricity requires work to be carried out).

Clause 38 requires Sydney Electricity to pay compensation for any damage it causes as a result of entry (other than damage arising from work done for the purposes of an inspection).

Clause 39 authorises Sydney Electricity to discontinue the supply of electricity to premises if access to the premises at any reasonable time is denied or obstructed.

PART 9 - MISCELLANEOUS

Clause 40 enables the resumption or appropriation of land for the purposes of the proposed Act. Any such resumption or appropriation is to be effected under the Public Works Act 1912.

Sydney Electricity 1990

Clause 41 enables Sydney Electricity to discontinue the supply of electricity to a person who has failed to pay an electricity account and who has been notified of the intention to discontinue.

Clause 42 confers on Sydney Electricity the power, after giving appropriate notice, to break open public roads and public reserves for the purpose of exercising its functions.

Clause 43 enables Sydney Electricity, in order to exercise its functions, to request another authority to alter the position of a service (for example, in the form of a pipe or cable) provided by the other authority. Sydney Electricity is empowered to make the alteration, without permanent damage to the service, if the other authority does not make the alteration requested.

Clause 44 enables Sydney Electricity to demolish or remove a structure or work which interferes with a work of Sydney Electricity.

Clause 45 prevents electricity works of Sydney Electricity from being taken in execution of any court process issued against another person.

Clause 46 authorises Sydney Electricity to waive or refund charges etc.

Clause 47 provides that a function exercised by Sydney Electricity or a delegate of Sydney Electricity is not invalidated if it is exercised contrary to a direction by the Minister.

Clause 48 exculpates from personal liability the directors of Sydney Electricity or persons duly acting under direction for any matter or thing done in good faith in the execution of official duties.

Clause 49 makes provision for the custody and use of the seal of Sydney Electricity.

Clause 50 provides for the service of documents on Sydney Electricity.

Clause 51 enables Sydney Electricity to recover charges etc. due as a debt.

Clause 52 provides that offences against the proposed Act or regulations are to be dealt with in a summary manner before a Local Court.

Clause 53 empowers the making of regulations generally for the purposes of the proposed Act. References in this clause to monetary penalties are expressed in penalty units. Under section 56 of the Interpretation Act 1987, 1 penalty unit is currently equivalent to \$100.

Clause 54 provides for the repeal of the Sydney County Council (Elections) Act 1968.

Clause 55 repeals Ordinance No. 20A made under the Local Government Act 1919 and a regulation under the Gas Act 1986 relating to the preparation of estimates and budget meeting of the Sydney County Council.

Clause 56 provides for the consequential amendment of the Acts specified in Schedule 4.

Sydney Electricity 1990

Clause 57 is a formal provision that gives effect to the savings, transitional and other provisions in Schedule 5.

SCHEDULES

Schedule 1 describes the Sydney Electricity District by reference to local government areas.

Schedule 2 contains provisions relating to the directors of Sydney Electricity, including the conduct of elections of elected directors, the terms of office of directors and a requirement for the disclosure of pecuniary interests.

Schedule 3 contains provisions relating to the procedure at meetings of directors of Sydney Electricity.

Schedule 4 contains proposed amendments to other Acts consequent on the enactment of the proposed Act.

The Acts amended are:

- Electricity Act 1945
- Electricity Commission Act 1950
- Government and Related Employees Appeal Tribunal Act 1980
- Local Government Act 1919
- Local Government Associations Incorporation Act 1974
- Public Authorities (Financial Arrangements) Act 1987
- Public Finance and Audit Act 1983
- Public Sector Management Act 1988
- State Authorities Non-contributory Superannuation Act 1987
- State Authorities Superannuation Act 1987
- Superannuation Act 1916
- Unclaimed Money Act 1982

Schedule 5 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

FIRST PRINT

SYDNEY ELECTRICITY BILL 1990

NEW SOUTH WALES



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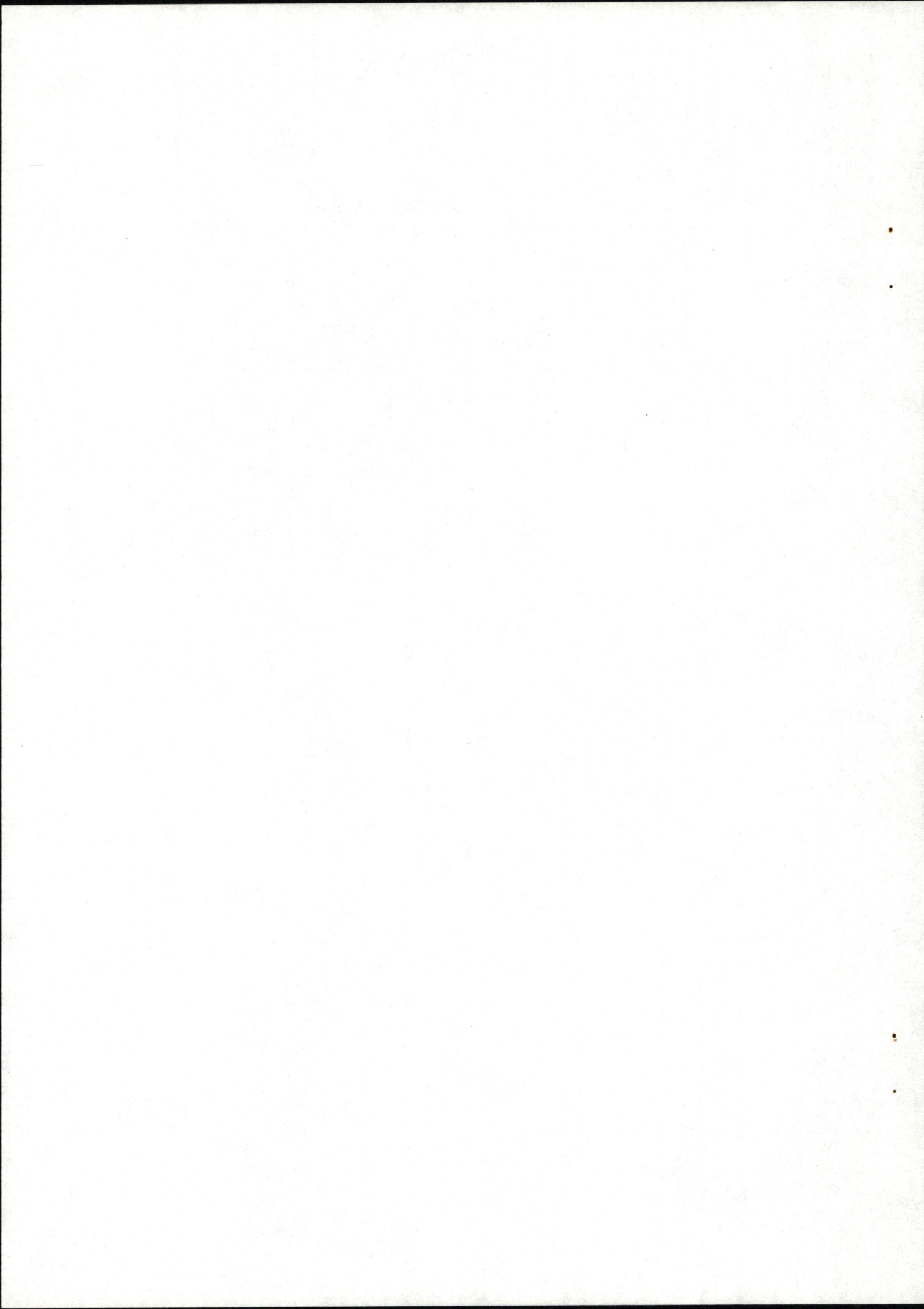
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SYDNEY ELECTRICITY BILL 1990

NEW SOUTH WALES



No. , 1990

A BILL FOR

An Act to constitute a body corporate named Sydney Electricity and to specify its functions; to dissolve the Sydney County Council; and to make consequential amendments to certain Acts.

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the Sydney Electricity Act 1990.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. (1) In this Act:

"Sydney Electricity" means the body corporate constituted by this Act;

"Sydney Electricity District" means the district comprised as described in Schedule 1.

- (2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

PART 2 - CONSTITUTION OF SYDNEY ELECTRICITY

Constitution of Sydney Electricity

4. (1) There is constituted by this Act a body corporate with the corporate name of Sydney Electricity.

- (2) Sydney Electricity is, for the purposes of any Act, a statutory body representing the Crown.

PART 3 - FUNCTIONS OF SYDNEY ELECTRICITY

Principal functions of Sydney Electricity

5. (1) Sydney Electricity has the following functions:

- (a) the purchase, supply and distribution of electricity;
- (b) the provision and maintenance of works for the supply of electricity;

- (c) the development, manufacture and supply of electrical fittings and appliances;
- (d) the protection of the public from dangers arising from the transmission, distribution and use of electricity;
- (e) the promotion of the safe and efficient use of electricity and electrical fittings and appliances.

(2) Sydney Electricity has such other functions as are conferred or imposed on it by or under any other law.

Ancillary functions of Sydney Electricity

6. (1) In the exercise of its functions under section 5, Sydney Electricity may:

- (a) conduct any business and, for that purpose, use any property or the services of any staff of Sydney Electricity; and
- (b) acquire land, develop land and dispose of land; and
- (c) acquire or build, and maintain and dispose of, any buildings, plant, machinery, equipment or vehicles; and
- (d) make and enter into contracts or arrangements for the carrying out of works or the performance of services or the supply of goods or materials; and
- (e) make charges and impose fees for services performed and goods and materials supplied by it; and
- (f) appoint agents, and act as agents for other persons.

(2) Sydney Electricity may do all such things as are supplemental or incidental to, or consequential on, the exercise of its other functions.

(3) Sydney Electricity may exercise its functions within the Sydney Electricity District and, with the approval of the Minister, outside the Sydney Electricity District.

Delegation of functions

7. (1) Sydney Electricity may delegate to an authorised person any of its functions, other than this power of delegation.

(2) A delegate may sub-delegate to an authorised person any function delegated by Sydney Electricity if the delegate is authorised in writing to do so by Sydney Electricity.

- (3) In this section, "authorised person" means:
- (a) a member of staff of Sydney Electricity or any other person of whose services Sydney Electricity makes use; or
 - (b) a person of a class prescribed by the regulations or of a class approved by the directors of Sydney Electricity.

PART 4 - THE MINISTER AND THE DIRECTORS OF SYDNEY ELECTRICITY

Directors of Sydney Electricity

8. (1) There are to be 9 directors of Sydney Electricity.
- (2) The directors are to comprise:
- (a) 5 directors elected in accordance with this Act; and
 - (b) 4 directors appointed by the Minister.
- (3) The persons appointed as directors by the Minister must have such managerial, commercial, financial, legal or other qualifications as the Minister considers appropriate to enable the directors to carry out their functions.
- (4) Of the directors:
- (a) one is to be appointed by the Minister, by instrument in writing, as Chairperson of Sydney Electricity; and
 - (b) one may be appointed by the Minister as Deputy Chairperson of Sydney Electricity.
- (5) Schedule 2 has effect with respect to the directors of Sydney Electricity.
- (6) Schedule 3 has effect with respect to meetings of the directors of Sydney Electricity.

Directors to determine policies of Sydney Electricity etc.

9. (1) The directors of Sydney Electricity have the function of determining the policies of Sydney Electricity.
- (2) In determining those policies, the directors must, as far as practicable, ensure that the activities of Sydney Electricity are carried out properly and efficiently and in accordance with sound commercial practice.

Ministerial control

10. (1) The Minister may give the directors of Sydney Electricity written directions in relation to the exercise of Sydney Electricity's functions.

(2) Subject to this section, the directors of Sydney Electricity and the Chief Executive of Sydney Electricity must ensure that Sydney Electricity complies with any such direction.

(3) If the directors of Sydney Electricity consider that:

- (a) Sydney Electricity would suffer a significant financial loss as a result of complying with the direction; and
- (b) the direction is not in the commercial interests of Sydney Electricity,

the directors may request the Minister to review the direction.

(4) A request for a review is to contain an estimate of the financial loss the directors consider Sydney Electricity would suffer and must be made within 7 days after the direction is given or within such other reasonable period as the Minister determines.

(5) If the directors request a review, Sydney Electricity is not required to comply with the direction until notified of the Minister's decision following the review.

(6) Following the review, the Minister may confirm or revoke the direction.

(7) For the purposes of this section, the amount of the financial loss that Sydney Electricity suffers as a result of complying with a direction includes the amount of expenditure that Sydney Electricity incurs, and the amount of revenue that Sydney Electricity forgoes, as a result of complying with the direction which it would not otherwise incur or forgo.

(8) Subsection (3) does not apply to the following directions:

- (a) a direction under section 15 (2) (a) of the Electricity Act 1945;
- (b) a direction given in relation to a requirement of the Treasurer under section 59B of the Public Finance and Audit Act 1983.

Sydney Electricity to supply information to Minister

11. Sydney Electricity must:

- (a) supply the Minister or a person nominated by the Minister with such information relating to its activities as the Minister or person may require; and
- (b) keep the Minister informed of the general conduct of its activities, and of any significant development in its activities.

Corporate plans

12. (1) Sydney Electricity is required to prepare and deliver to the Minister, at least 3 months before the beginning of each financial year of Sydney Electricity, a draft corporate plan for the financial year.

(2) Sydney Electricity must:

- (a) consider any comments on the draft corporate plan that are made by the Minister within 2 months after the draft plan is delivered to the Minister; and
- (b) deliver the completed corporate plan to the Minister before the beginning of the financial year concerned.

(3) Sydney Electricity must, as far as practicable, exercise its functions in accordance with the relevant corporate plan.

(4) A corporate plan must specify:

- (a) the separate business activities of Sydney Electricity; and
- (b) the objectives of each such separate activity for the financial year concerned and for the following 2 financial years (or such other number of financial years as the Minister directs); and
- (c) the strategies, policies and budgets for achieving those objectives; and
- (d) targets and criteria for assessing the performance of Sydney Electricity.

(5) This section is subject to the requirements of any direction of the Minister under section 10.

Performance agreements

13. (1) The Minister and Sydney Electricity may, after consultation between them, enter into a performance agreement.

(2) A performance agreement is to set operational performance targets for Sydney Electricity in the exercise of specified functions during a financial year and is to provide for the evaluation and review of results in relation to those targets.

(3) Sydney Electricity must, as far as practicable, exercise its functions in accordance with the performance agreement.

(4) The results of Sydney Electricity's performance under a performance agreement during a financial year are to be included in Sydney Electricity's annual report relating to that year.

PART 5 - THE CHIEF EXECUTIVE OF SYDNEY ELECTRICITY
Chief Executive of Sydney Electricity

14. (1) The Governor may appoint a Chief Executive of Sydney Electricity.

(2) Before a person is appointed as Chief Executive, the Minister must give the directors of Sydney Electricity the opportunity to recommend any one or more persons for appointment.

(3) The employment of the Chief Executive is subject to Part 2A of the Public Sector Management Act 1988, but is not subject to Part 2 of that Act.

(4) The Minister may, from time to time, appoint a person to act in the office of the Chief Executive during the illness or absence of the Chief Executive (or during a vacancy in the office of Chief Executive) and the person, while so acting, has all the functions of the Chief Executive and is taken to be the Chief Executive.

(5) The Minister may, at any time, remove a person from office as acting Chief Executive.

(6) An acting Chief Executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(7) A director is not to be appointed as Chief Executive or acting Chief Executive.

Chief Executive to manage and control affairs of Sydney Electricity

15. (1) The affairs of Sydney Electricity are to be managed and controlled by the Chief Executive of Sydney Electricity in accordance with the policies of the directors of Sydney Electricity.

(2) Any act, matter or thing done in the name of, or on behalf of, Sydney Electricity by the Chief Executive of Sydney Electricity is taken to have been done by Sydney Electricity.

Right of Chief Executive to attend meetings of directors

16. (1) The Chief Executive is entitled to attend and to participate in discussions at meetings of the directors of Sydney Electricity but is not entitled to vote at any such meeting.

(2) The Chief Executive (or acting Chief Executive) must not, without the consent of the directors, be present at a meeting of the directors during the discussion and determination of a matter relating to the Chief Executive or the office of the Chief Executive.

PART 6 - STAFF

Employment of staff

17. Sydney Electricity may employ such staff as it requires to exercise its functions.

Salary, conditions etc. of staff

18. Sydney Electricity may determine salary, wages and conditions of employment of its staff in so far as they are not determined by or under any other Act or law.

Regulations relating to staff

19. (1) The regulations may make provision for or with respect to the employment of the staff of Sydney Electricity, including the conditions of employment and the discipline of any such staff.

(2) Any such regulations relating to the conditions of employment or the discipline of staff:

- (a) have effect subject to any relevant award made by a competent industrial tribunal and to any industrial agreement to which Sydney Electricity is a party; and

- (b) have effect despite any determination of Sydney Electricity under section 18; and
- (c) have effect subject to Part 2A of the Public Sector Management Act 1988.

Use of staff or facilities of departments etc.

20. Sydney Electricity may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a government department, an administrative office or a public or local authority.

Consultants

21. Sydney Electricity may engage such consultants as it requires to exercise its functions.

PART 7 - FINANCE

Establishment of funds

22. Sydney Electricity is required to establish the following funds:
- (a) a fund to be known as the Sydney Electricity General Fund;
 - (b) a fund to be known as the Sydney Electricity Trust Fund.

Sydney Electricity General Fund

23. (1) There is to be paid into the Sydney Electricity General Fund:
- (a) all money received by or on account of Sydney Electricity, other than money that is required to be paid into the Sydney Electricity Trust Fund; and
 - (b) all interest and other amounts received in respect of the investment of money belonging to the General Fund; and
 - (c) all money borrowed by or advanced to Sydney Electricity or appropriated by Parliament for the purposes of Sydney Electricity; and
 - (d) all money required to be paid into the General Fund by or under this or any other Act.
- (2) There may be paid from the Sydney Electricity General Fund:
- (a) the remuneration (including allowances) of the directors and staff of Sydney Electricity; and

- (b) all payments made on account of Sydney Electricity or otherwise required to meet expenditure incurred in relation to the functions of Sydney Electricity; and
- (c) all other payments required by or under this or any other Act to be paid from the General Fund.

Sydney Electricity Trust Fund

24. (1) There is to be paid into the Sydney Electricity Trust Fund:

- (a) all money held by Sydney Electricity by way of deposit for any person (including deposits paid to secure a supply of electricity); and
- (b) all money held by Sydney Electricity in the capacity of trustee; and
- (c) all money required to be paid into the Trust Fund by or under this or any other Act.

(2) There may be paid from the Sydney Electricity Trust Fund:

- (a) repayments of deposits referred to in subsection (1) (a); and
- (b) payments of money made in accordance with the trusts on which the money is held; and
- (c) all other payments required by or under this or any other Act to be paid from the Trust Fund.

Sydney Electricity dividend contributions to Consolidated Fund

25. (1) Sydney Electricity must pay to the Treasurer for payment into the Consolidated Fund, by way of dividend contribution in respect of each financial year of Sydney Electricity, such amount as may be determined by the Treasurer.

(2) The amount so determined is to be paid from:

- (a) the profits (if any) derived in the financial year concerned from the exercise by Sydney Electricity of its functions; or
- (b) the accumulated reserves of Sydney Electricity derived from the exercise of its functions.

(3) The Treasurer must consult the Minister and Sydney Electricity in connection with any determination to be made by the Treasurer under this section.

(4) This section applies in relation to such financial year of Sydney Electricity as the Treasurer determines.

(5) Nothing in this section affects section 59B of the Public Finance and Audit Act 1983.

Payment of amounts under sec. 25

26. (1) An amount payable by Sydney Electricity under section 25 is to be paid in such instalments and at such times as are determined by the Treasurer and notified in writing to Sydney Electricity.

(2) The Treasurer may, by notice in writing given to Sydney Electricity, advise that in relation to any specified financial year it need not make a payment required by section 25 or that it is required to make only a specified proportion of that payment.

Investment

27. Sydney Electricity may invest money held by it:

- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) if that Act does not confer power to invest money held by Sydney Electricity:
 - (i) in any manner authorised for the time being for the investment of trust funds; or
 - (ii) in any other manner approved by the Minister with the concurrence of the Treasurer.

Banking

28. All money received on account of the Sydney Electricity General Fund or the Sydney Electricity Trust Fund is to be paid into a bank or banks in New South Wales.

Financial year

29. (1) The financial year of Sydney Electricity is the year commencing on 1 July.

(2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

PART 8 - ENTRY AND INSPECTION

Definition

30. In this Part, "**authorised person**" means a person authorised for the purposes of a provision of this Act by Sydney Electricity.

Authorised persons

31. (1) Sydney Electricity may authorise a person to exercise any function conferred or imposed under any provision of this Act.

(2) Sydney Electricity is required to issue to an authorised person a certificate of authority in a form approved by Sydney Electricity.

(3) An authorised person exercising or proposing to exercise a function conferred or imposed under any provision of this Act on or in any land or building must, on request, produce the person's certificate of authority to a person apparently in charge there.

Power of entry

32. For the purposes of, and subject to this Act and the regulations, an authorised person may enter on any land or buildings at all reasonable hours for the purposes of:

- (a) installing, removing, reading or adjusting any electricity metering equipment or other property of Sydney Electricity; or
- (b) checking if Sydney Electricity's conditions relating to tariffs and to the use of electricity are being complied with.

Notice of entry

33. (1) Before an authorised person enters any land or building under a power conferred by this Part, the Chief Executive or an authorised person must serve on the owner or occupier of the land or building notice in writing of the intention to enter the land or building on a day specified in the notice.

(2) This section does not require notice to be given:

- (a) if entry to any land or building is made with the consent of the owner or occupier of the land or building; or
- (b) if entry is required urgently and the case is one in which the Chief Executive has authorised in writing (either generally or in the particular case) entry without notice; or

- (c) if entry is made solely for the purpose of reading an electricity meter.

Use of force

34. (1) Reasonable force may be used for the purpose of gaining entry to any land or building (other than any part used for residential purposes) under a power conferred by this Part.

(2) The authority conferred by this section to use reasonable force must not be exercised in any case unless the Chief Executive has authorised in writing (either generally or in the particular case) the use of force in the circumstances of the case.

(3) Any general authority for the use of force given by the Chief Executive must specify the circumstances which are required to exist before force may be used.

Notification of use of force or entry without notice

35. If an authorised person:

- (a) uses force for the purpose of gaining entry to any land or building; or
- (b) enters any land or building and notice under section 33 of intention to enter was not served on the owner or occupier of the land or building,

the Chief Executive or an authorised person must promptly cause notice in writing to that effect to be served on such persons or authorities as appear to the Chief Executive or authorised person to be appropriate in the circumstances.

Exercise of functions

36. In the exercise of a function conferred or imposed by this Part, an authorised person must:

- (a) do as little damage as possible; and
- (b) provide, if necessary, other means of access or temporary works or structures in place of any taken away or interrupted by it.

Recovery of costs of entry and inspection

37. If an authorised person enters any land or building under this Part for the purpose of making an inspection and as a result of that inspection, under a power conferred on the authorised person by or

under this Act, work is required to be carried out on or in connection with any electric line or any property or works of Sydney Electricity on or in the land or building, Sydney Electricity may recover the reasonable costs of the entry and inspection from the owner or occupier of the land or building.

Compensation

38. (1) Sydney Electricity must compensate all interested parties for any damage caused by it under this Part, other than damage arising from work done for the purpose of an inspection.

(2) In the case of land of which temporary possession has been taken or use made, the compensation may be a gross sum or a rent.

Discontinuance of supply following refusal of access or obstruction

39. (1) If, after production of a written authority issued by Sydney Electricity to an authorised person, any person:

- (a) refuses or fails to give the authorised person access at any reasonable time to any premises supplied with electricity by Sydney Electricity for the purpose of installing, removing, examining, reading or adjusting any electricity metering equipment or for the purpose of checking if Sydney Electricity's conditions relating to tariffs and to the use of electricity are being complied with; or
- (b) obstructs the authorised person in relation to any act, matter or thing done or to be done in carrying out those purposes,

Sydney Electricity may, without prejudice to any other remedy, discontinue the supply of electricity to the premises until such time as such access is given or such obstruction is terminated.

(2) Sydney Electricity is not liable for any loss or damage suffered by any person as a consequence of discontinuing a supply of electricity under this section.

PART 9 - MISCELLANEOUS

Resumption etc. of land

40. (1) For the purposes of this Act, the Governor may, on the recommendation of the Minister, resume or appropriate any land under Division 1 of Part 5 of the Public Works Act 1912.

(2) A resumption or appropriation effected under this section is taken to be for an authorised work within the meaning of the Public Works Act 1912 and the Minister is, in relation to that authorised work, taken to be the Constructing Authority within the meaning of that Act.

(3) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not, but section 38 of that Act does, apply in relation to a resumption or appropriation under this section.

Discontinuance of supply for failure to pay

41. (1) If a person fails to pay an amount to Sydney Electricity for electricity supplied by it, Sydney Electricity may, after giving the person reasonable notice of its intention to do so, discontinue the supply of electricity to the person until the amount, together with any expenses incurred by Sydney Electricity in discontinuing the supply, are paid.

(2) Sydney Electricity is not liable for any loss or damage suffered by any person as a consequence of discontinuing a supply of electricity under this section.

Power to break up roads etc.

42. (1) Sydney Electricity may, on giving the prescribed notices:

(a) open and break up:

(i) the soil and pavement of a public road or public reserve; and

(ii) anything in or under a public road or public reserve; and

(b) place structures on, over or beneath a public road or public reserve; and

(c) erect an electric line or other thing relating to a supply of electricity on, over or beneath a public road or public reserve,

for the purpose of exercising its functions.

(2) The statutory body having the control and management of a public road or public reserve may, in accordance with any regulations, require Sydney Electricity to comply with conditions in exercising its powers under subsection (1), including conditions for restoration of the surface and removal of rubbish.

(3) If Sydney Electricity fails to comply with a condition in force under subsection (2), the statutory body affected by the failure may

remedy it and recover the cost of doing so as a debt owed to the statutory body by Sydney Electricity.

Altering position of conduit of another authority

43. (1) If:

- (a) Sydney Electricity, in order to exercise its functions, needs an alteration to be made in the position of a conduit owned by another person; and
- (b) the alteration would not permanently damage the conduit or adversely affect its operation,

Sydney Electricity may serve on the person a written notice that complies with subsection (2).

(2) A notice must:

- (a) specify the alteration needed; and
- (b) require the alteration to be made within a reasonable time stated in the notice; and
- (c) include an undertaking by Sydney Electricity to pay the reasonable cost of the alteration.

(3) If the alteration is not made as required by the notice, Sydney Electricity may make the alteration in such a manner as not to damage the conduit permanently or adversely affect its operation on completion of the alteration.

(4) In this section, "**conduit**" means anything that is in or under a public road or public reserve and is used for the conveyance of a substance, energy or signals.

Obstruction of works

44. (1) If a person places a structure or other thing in or near a work of Sydney Electricity in such a manner as to interfere with or damage the work, Sydney Electricity may:

- (a) demolish and remove the structure or other thing; and
- (b) repair the work; and
- (c) recover the cost of doing so as a debt owing to Sydney Electricity by the person who placed the structure or other thing there.

(2) Sydney Electricity may apply for an injunction to prevent a structure or other thing being placed as referred to in this section.

Sydney Electricity's fittings not to be taken in execution

45. (1) If any electric line, meter, fitting, insulator, apparatus or work of Sydney Electricity is placed in or on any place or building (not being in the possession of Sydney Electricity) for the purpose of supplying electricity, it is not to be taken in execution under any process of a court of law or equity.

(2) This section does not affect any execution lawfully issued against Sydney Electricity.

Waiver or refund of charges etc. by Sydney Electricity

46. Sydney Electricity may waive or refund the whole or any part of any charge, fee or money due to Sydney Electricity in any particular case or in any class of cases.

Presumption of validity

47. The exercise of a function by Sydney Electricity or a delegate of Sydney Electricity is not invalidated because it is exercised in contravention of a direction by the Minister.

Personal liability of the directors etc.

48. A matter or thing done or omitted by Sydney Electricity, a director of Sydney Electricity, the Chief Executive or any person acting under the direction of Sydney Electricity, the directors or the Chief Executive does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act, subject the director, the Chief Executive or a person so acting personally to any action, liability, claim or demand.

Seal of Sydney Electricity

49. The seal of Sydney Electricity is to be kept by the Chief Executive and may be affixed to a document only:

- (a) in the presence of the Chairperson (or a person authorised for that purpose by the Chairperson) and the Chief Executive (or a person authorised for that purpose by the Chief Executive); and
- (b) with an attestation by the signature of the Chief Executive or that member of the fact of the affixing of the seal.

Service of documents on Sydney Electricity

50. (1) A document may be served on Sydney Electricity by leaving it at, or by sending it by post to:

- (a) the office of Sydney Electricity; or
- (b) if it has more than one office - any one of its offices.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on Sydney Electricity in any other manner.

Recovery of charges etc. by Sydney Electricity

51. Any charge, fee or money due to Sydney Electricity may be recovered by Sydney Electricity as a debt in a court of competent jurisdiction.

Proceedings for offences

52. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Regulations

53. (1) 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.

(2) Without limiting the generality of subsection (1), the regulations may make provision for or with respect to the following:

- (a) the appointment of deputies of directors;
- (b) the supply, distribution and use of electricity within the Sydney Electricity District;
- (c) charges for electricity;
- (d) fees and service charges;
- (e) the payment of charges for electricity and of fees and service charges;
- (f) the payment of interest on unpaid amounts due to Sydney Electricity;
- (g) offences relating to the supply and use of electricity and any works or property of Sydney Electricity;

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- (h) requiring the carrying out of work to remove a danger or to remedy a defect relating to the supply, distribution or use of electricity within the Sydney Electricity District;
 - (i) the opening of the surface of roads;
 - (j) the application to Sydney Electricity, with or without modification, of a specified provision of the Local Government Act 1919 or of any ordinance made under that Act.
- (3) A regulation may create an offence punishable by a penalty not exceeding:
- (a) 200 penalty units in the case of a corporation; or
 - (b) 100 penalty units in any other case.

Repeal of Sydney County Council (Elections) Act 1968 No. 68

54. The Sydney County Council (Elections) Act 1968 is repealed.

Repeal of certain statutory rules

55. (1) Ordinance No. 20A (Sydney County Council - Elections) made under the Local Government Act 1919 is repealed.

(2) The regulation under the Gas Act 1986 relating to the preparation of estimates and budget meeting of the Sydney County Council is repealed.

Amendment of Acts

56. The Acts specified in Schedule 4 are amended in the manner set out in that Schedule.

Savings, transitional and other provisions

57. Schedule 5 has effect.

SCHEDULE 1 - SYDNEY ELECTRICITY DISTRICT

(Sec. 3 (1))

The Sydney Electricity District comprises the following 5 Electricity Supply Districts:

SCHEDULE 1 - SYDNEY ELECTRICITY DISTRICT - *continued*

1. The City and Eastern Electricity Supply District comprising the following local government areas:
 - City of Sydney
 - City of South Sydney
 - Municipality of Botany
 - City of Randwick
 - Municipality of Waverley
 - Municipality of Woollahra
2. The Southern Electricity Supply District comprising the following local government areas:
 - Shire of Sutherland
 - City of Hurstville
 - Municipality of Kogarah
 - Municipality of Rockdale
 - Municipality of Canterbury
3. The Central Sydney Electricity Supply District comprising the following local government areas:
 - Municipality of Auburn
 - Municipality of Concord
 - Municipality of Drummoyne
 - Municipality of Ashfield
 - Municipality of Burwood
 - Municipality of Strathfield
 - City of Bankstown
 - Municipality of Leichhardt
 - Municipality of Marrickville
4. The North Shore Electricity Supply District comprising the following local government areas:
 - Municipality of Ryde
 - Municipality of Hunters Hill
 - Municipality of Lane Cove
 - Municipality of North Sydney
 - City of Willoughby
 - Municipality of Mosman
 - Municipality of Manly
 - Shire of Warringah

SCHEDULE 1 - SYDNEY ELECTRICITY DISTRICT - *continued*

5. The Berowra-Central Coast Electricity Supply District comprising the following local government areas:

Shire of Wyong
City of Gosford
Shire of Hornsby
Municipality of Ku-ring-gai

SCHEDULE 2 - THE DIRECTORS OF SYDNEY ELECTRICITY

(Sec. 8 (5))

Definitions

1. In this Schedule:

"**appointed director**" means a director appointed by the Minister under section 8 (2) (b);

"**director**" means any director of Sydney Electricity;

"**elected director**" means a director elected as referred to in section 8 (2) (a);

"**Electricity Supply District**" means an Electricity Supply District specified in Schedule 1.

Elected directors

2. (1) There is to be one elected director for each Electricity Supply District.

(2) The elected director for an Electricity Supply District is to be elected by the members for the time being of the councils of the local government areas which comprise the Electricity Supply District.

(3) A person is eligible to be elected as a director if the person:

(a) is a member of a council of a local government area within the Electricity Supply District for which the director is to be elected; and

(b) has such managerial, commercial, financial, legal or other qualifications as will enable the person to carry out the functions of a director.

**SCHEDULE 2 - THE DIRECTORS OF SYDNEY
ELECTRICITY - *continued***

Conduct of elections

3. (1) An election of an elected director is to be held as soon as practicable (but, in any event, within 3 months) after the ordinary election of members of the councils of the local government areas within the Electricity Supply District concerned.

(2) An election is to be conducted by the Electoral Commissioner in accordance with the regulations.

(3) The regulations are to provide for:

- (a) voting to be conducted by postal ballot; and
- (b) voting to be not compulsory; and
- (c) the adoption of preferential voting; and
- (d) such other matters as may be necessary or convenient for the conduct of an election.

Effect of failure to elect director

4. If no director is elected for an Electricity Supply District within 3 months after:

- (a) an ordinary election of members of the councils of local government areas within the Electricity Supply District; or
 - (b) the occurrence of a vacancy in the office of an elected director,
- the Minister may appoint as an elected director a person who is qualified for appointment under section 8.

Means of effecting appointment of appointed director as Chairperson and Deputy Chairperson

5. If a person who is appointed a director by the Minister is appointed as Chairperson or Deputy Chairperson of Sydney Electricity, the person's appointment as Chairperson or Deputy Chairperson may be effected in and by the person's instrument of appointment as a director or in and by another instrument executed by the Minister.

SCHEDULE 2 - THE DIRECTORS OF SYDNEY
ELECTRICITY - *continued*

Chairperson of Sydney Electricity

6. (1) The Minister may remove a director from the office of Chairperson or Deputy Chairperson of Sydney Electricity at any time.

(2) A person who is a director and Chairperson or Deputy Chairperson of Sydney Electricity vacates office as Chairperson or Deputy Chairperson if the person:

- (a) is removed from that office by the Minister; or
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to be a director.

Terms of office of directors

7. (1) Subject to this Schedule, an elected director holds office until the director's successor is elected.

(2) Subject to this Schedule, an appointed director holds office for such period (not exceeding 4 years) as may be specified in the director's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

8. A director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the director.

Vacancy in office of directors

9. (1) The office of a director becomes vacant if the director:

- (a) dies; or
- (b) completes a term of office and is not re-elected or re-appointed;
or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) is removed from office by the Minister under this clause or by the Governor under Part 8 of the Public Sector Management Act 1988; or

**SCHEDULE 2 - THE DIRECTORS OF SYDNEY
ELECTRICITY - *continued***

- (e) is absent from 4 consecutive meetings of directors of which reasonable notice has been given to the director personally or in the ordinary course of post, except on leave granted by the directors or unless, before the expiration of 4 weeks after the last of those meetings, the director is excused by the other directors for having been absent from those meetings; or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (g) becomes a mentally incapacitated person; or
- (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable; or
- (i) in the case of an elected director, ceases to be a member of a council of a local government area within the Electricity Supply District for which the director is elected.

(2) The Minister may remove an elected or appointed director from office for incapacity, incompetence or misbehaviour.

Disclosure of pecuniary interests

10. (1) If:

- (a) a director has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the directors; and
- (b) the interest appears to raise a conflict with the proper performance of the director's duties in relation to the consideration of the matter,

the director must, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the directors.

(2) A disclosure by a director at a meeting of the directors that the director:

SCHEDULE 2 - THE DIRECTORS OF SYDNEY
ELECTRICITY - *continued*

- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause are to be recorded by the directors in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the directors.

(4) After a director has disclosed the nature of an interest in any matter, the director must not, unless the Minister or the other directors otherwise determine:

- (a) be present during any deliberation of the directors with respect to the matter; or
- (b) take part in any decision of the directors with respect to the matter.

(5) For the purposes of the making of a determination by the directors under subclause (4), a director who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the other directors for the purpose of making the determination; or
- (b) take part in the making by the other directors of the determination.

(6) A contravention of this clause does not invalidate any decision of the directors.

(7) This clause does not apply to or in respect of an interest of a director (being the provision of goods or services to or in respect of the director by Sydney Electricity) if the goods or services are, or are to be, available to members of the public on the same terms and conditions.

SCHEDULE 2 - THE DIRECTORS OF SYDNEY
ELECTRICITY - *continued*

Filling of vacancy in office of director

11. (1) If the office of an elected director becomes vacant:
- (a) within a period of 9 months before the date of the next ordinary election of members of councils of local government areas - the vacancy is to be filled by the appointment by the Minister of a person who is qualified for appointment as an appointed director; or
 - (b) at any other time - the vacancy is to be filled at an election in accordance with this Schedule to be held as soon as practicable (but, in any event, within 3 months) after the vacancy occurred.
- (2) The Minister may appoint a person who is qualified for appointment under section 8 to act in the office of an elected director during any period for which that office would otherwise be vacant.
- (3) A person appointed under subclause (2) is, while acting in the office, taken to be an elected director.
- (4) If the office of any appointed director becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Effect of certain other Acts

12. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of an appointed director.
- (2) If by or under any Act provision is made:
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,
- the provision does not operate to disqualify the person from holding that office and also the office of director or from accepting and retaining any remuneration payable to the person under this Act as a director.
- (3) The office of director is not, for the purposes of any Act, an office or place of profit under the Crown.

**SCHEDULE 3 - MEETINGS OF THE DIRECTORS OF SYDNEY
ELECTRICITY**

(Sec. 8 (6))

General procedure

1. The procedure for the calling of meetings of directors and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the directors.

Quorum

2. The quorum for a meeting of directors is 5 directors.

Presiding member

3. (1) The Chairperson of Sydney Electricity or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the directors.

(2) If the Chairperson and the Deputy Chairperson are both absent, another director elected to chair the meeting by the directors present is to preside at a meeting of the directors.

(3) The person presiding at any meeting of the directors has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

4. A decision supported by a majority of the votes cast at a meeting of the directors at which a quorum is present is the decision of the directors.

Transaction of business outside meetings or by telephone etc.

5. (1) The directors may, if they think fit, transact any of their business by the circulation of papers among all the directors of Sydney Electricity for the time being, and a resolution in writing approved in writing by a majority of those directors is taken to be a decision of the directors.

**SCHEDULE 3 - MEETINGS OF THE DIRECTORS OF
SYDNEY ELECTRICITY - *continued***

(2) The directors may, if they think fit, transact any of their business at a meeting at which directors (or some directors) participate by telephone, closed-circuit television or other means, but only if any director who speaks on a matter before the meeting can be heard by the other directors.

(3) For the purposes of:

(a) the approval of a resolution under subclause (1); or

(b) a meeting held in accordance with subclause (2),

the Chairperson and each director have the same voting rights they have at an ordinary meeting of the directors.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of directors.

(5) Papers may be circulated among directors for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

First meeting

6. The Minister is to call the first meeting of the directors in such manner as the Minister thinks fit.

SCHEDULE 4 - AMENDMENT OF ACTS

(Sec. 56)

Electricity Act 1945 (1946 No. 13)

(1) Section 4 (**Definitions**):

(a) In the definition of "Council" in section 4 (1), after "that Act", insert "and Sydney Electricity".

(b) Insert in section 4 (1), in alphabetical order:

"**County district**" includes the Sydney Electricity District within the meaning of the Sydney Electricity Act 1990.

(2) Section 5 (**Constitution of the Electricity Council**):

(a) Omit section 5 (4) (a) (i).

SCHEDULE 4 - AMENDMENT OF ACTS - *continued*

- (b) From section 5 (4) (e), omit "and".
- (c) At the end of section 5 (4) (f), insert:
 - ; and
 - (g) the Chairperson and Chief Executive of Sydney Electricity,
- (3) Section 7A (**Appointment of government representatives to electricity councils**):
 - From section 7A (1) (a), omit "the Sydney County Council,".
- (4) Part 2B, Division 2 (**Sydney County Council**):
 - Omit the Division.
- (5) Section 7V:
 - After section 7U, insert:
 - Division not to apply to Sydney Electricity**
 - 7V. This Division does not apply to Sydney Electricity.
- (6) Section 14F (**Payment of subsidies for pensioner rebates out of Electricity Development Fund**):
 - From section 14F (1), omit "the Sydney County Council", insert instead "Sydney Electricity".
- (7) Schedule 5 (**Areas which constitute the Sydney County District**) and Schedule 6 (**Delegates to the Sydney County Council**):
 - Omit the Schedules.

Electricity Commission Act 1950 No. 22

- (1) Section 3 (**Definitions**):
 - (a) From the definition of "Council" in section 3 (1) omit "the Sydney County Council", insert instead "Sydney Electricity".

SCHEDULE 4 - AMENDMENT OF ACTS - *continued*

(b) After section 3 (4), insert:

(5) In this Act, a reference to the area of a council includes, in the case of Sydney Electricity, a reference to the Sydney Electricity District within the meaning of the Sydney Electricity Act 1990.

(2) Section 8 (**Particular powers in certain cases**):

(a) From section 8 (1), omit "the Sydney County Council", insert instead "Sydney Electricity".

(b) From section 8 (3) and (4), omit "General Manager of the Sydney County Council" wherever occurring, insert instead "Chief Executive of Sydney Electricity".

(3) Part 4, Division 2 (**Sydney County Council**):

Omit the Division.

(4) Part 6, Division 1 (**Transfer of officers to the Commission**):

Omit the Division.

Government and Related Employees Appeal Tribunal Act 1980 No. 39

Schedule 4 (**Employing Authorities**):

Insert, in alphabetical order:

Sydney Electricity.

Local Government Act 1919 No. 41

(1) Section 99 (**Inquiry before dismissal of certain employees**):

From section 99 (1), omit "(including the Sydney County Council)".

(2) Section 171 (**Annual charge on rails, pipes etc.**):

Omit section 171 (6).

SCHEDULE 4 - AMENDMENT OF ACTS - *continued*

Local Government Associations Incorporation Act 1974 No. 20

Section 5 (Members of corporation):

At the end of section 5, insert:

(2) A reference in this section to county councils includes a reference to Sydney Electricity.

Public Authorities (Financial Arrangements) Act 1987 No. 33

Schedule 1 (Authorities):

(a) Omit "Sydney County Council".

(b) Insert, in alphabetical order:
Sydney Electricity.

Public Finance and Audit Act 1983 No. 152

Schedule 2 (Statutory Bodies):

(a) Omit "Sydney County Council".

(b) Insert, in alphabetical order:
Sydney Electricity.

Public Sector Management Act 1988 No. 33

Schedule 3 (Declared Authorities):

Insert, in alphabetical order:
Sydney Electricity.

State Authorities Non-contributory Superannuation Act 1987 No. 212

Schedule 1 (Employers):

At the end of Part 1, insert:
Sydney Electricity

State Authorities Superannuation Act 1987 No. 211

Schedule 1 (Employers):

At the end of Part 1, insert:
Sydney Electricity

SCHEDULE 4 - AMENDMENT OF ACTS - *continued*

Superannuation Act 1916 No. 28

Schedule 3:

At the end of the Schedule, insert:

Sydney Electricity.

Unclaimed Money Act 1982 No. 174

Section 3 (**Definitions**):

From paragraph (g) of the definition of "business" in section 3 (1), omit ", and the Sydney County Council constituted under the Electricity (Special Provisions) Act 1935".

SCHEDULE 5 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 57)

PART 1 - PRELIMINARY

Definition

1. In this Schedule, "**appointed day**" means the day appointed for the commencement of section 4.

Savings and transitional regulations

2. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

SCHEDULE 5 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

PART 2 - PROVISIONS CONSEQUENTIAL ON ENACTMENT OF THIS ACT

Dissolution of the Sydney County Council

- 3. On the appointed day, the Sydney County Council is dissolved.

Transfer of assets, rights and liabilities

- 4. (1) On the appointed day, the following provisions have effect:
 - (a) the assets of the Sydney County Council vest in Sydney Electricity by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance;
 - (b) the rights and liabilities of the Sydney County Council become by virtue of this clause the rights and liabilities of Sydney Electricity;
 - (c) all proceedings commenced before the appointed day by or against the Sydney County Council and pending immediately before the appointed day are taken to be proceedings pending by or against Sydney Electricity;
 - (d) any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the Sydney County Council is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of Sydney Electricity.
- (2) The operation of this clause is not to be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong; or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument,

SCHEDULE 5 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

because of a change in the beneficial or legal ownership of any asset, right or liability.

(3) No attornment to Sydney Electricity by a lessee from the Sydney County Council is required.

Existing councillors of the Sydney County Council

5. (1) A person who, immediately before the appointed day, held office as a councillor of the Sydney County Council:

- (a) ceases to hold that office; and
- (b) is eligible (if otherwise qualified) to be elected or appointed as a director of Sydney Electricity.

(2) A person who so ceases to hold office as a councillor of the Sydney County Council is not entitled to any remuneration or compensation because of the loss of that office.

Existing General Manager of the Sydney County Council

6. (1) A person who, immediately before the appointed day, held office as General Manager of the Sydney County Council:

- (a) ceases to hold that office; and
- (b) except as provided by this clause, is not entitled to any remuneration or compensation because of the loss of that office.

(2) The General Manager of the Sydney County Council is taken to have been appointed under section 14 (4) as acting Chief Executive until the Chief Executive is appointed or until removed from office under section 14 (5).

(3) If the General Manager of the Sydney County Council is not appointed as the Chief Executive of Sydney Electricity with effect from the appointed day, the General Manager is, on the day on which the Chief Executive is appointed or on the day on which the General Manager (as acting Chief Executive) is removed from office under section 14 (5), whichever is the earlier, entitled to compensation in accordance with Part 8 of the Public Sector Management Act 1988 as if removed from office under that Part.

SCHEDULE 5 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

Continuity of staff of Sydney County Council

7. (1) The persons who were, immediately before the appointed day, members of staff of the Sydney County Council are taken to be members of staff of Sydney Electricity employed under this Act.

(2) Subject to this Schedule, any such members of staff are (until other provision is duly made) to be employed in accordance with the awards, industrial agreements and determinations, and at the rates of pay, applying to them immediately before the appointed day as members of staff of the Sydney County Council.

(3) Members of staff to whom this clause applies are entitled to any accrued sick, recreational or extended leave (or any other leave or entitlement prescribed by the regulations) not taken before the appointed day.

Cessation of application of the Local Government Act 1919

8. (1) Subject to the regulations, the provisions of the Local Government Act 1919 and the ordinances made under that Act relating to:

- (a) county councils; and
 - (b) the production and supply of electricity,
- do not apply to or in respect of Sydney Electricity.

(2) The provisions of the Local Government Act 1919 and the ordinances made under that Act relating to the employment of persons by a county council do not apply to a person employed under this Act, except as provided by this section.

(3) Section 99 of the Local Government Act 1919 continues to apply to a person who, immediately before the appointed day, was an employee of the Sydney County Council and who was the subject of an inquiry, or suspended, under that section.

Superseded references

9. On and from the appointed day, a reference (other than a reference prescribed by the regulations) in any other Act, in any instrument made under any Act or in any document of any kind:

SCHEDULE 5 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

- (a) to the Sydney County Council is taken to be a reference to Sydney Electricity; or
- (b) the chairman of the Sydney County Council is taken to be a reference to the Chairperson of Sydney Electricity; or
- (c) to a delegate to the Sydney County Council is taken to be a reference to a director of Sydney Electricity; or
- (d) to the general manager of the Sydney County Council is taken to be a reference to the Chief Executive of Sydney Electricity.

Elected directors

10. (1) Until the first election of a director for an Electricity Supply District is conducted in accordance with this Act, each director referred to in section 8 (2) (a) is to be a person appointed by the Minister for the Electricity Supply District from among the persons who held office as councillors of the Sydney County Council immediately before the appointed day.

(2) The provisions of this Act relating to the appointment and office of a director appointed under section 8 (2) (b) apply to and in respect of the appointment and office of a person appointed under this clause.

(3) A person appointed under this clause holds office, subject to this Act, until the first election under this Act of a director for the Electricity Supply District for which the person was appointed.

Existing resumptions and appropriations

11. A resumption or appropriation of land, and the assessment and payment of compensation relating to the resumption or appropriation, which was commenced before the appointed day by or on behalf of the Sydney County Council is to be completed or otherwise dealt with by or on behalf of Sydney Electricity in accordance with the law applicable immediately before the appointed day to the resumption or appropriation.
