

# **ELECTRICITY (AMENDMENT) ACT 1993 No. 24**

NEW SOUTH WALES



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# ELECTRICITY (AMENDMENT) ACT 1993 No. 24

NEW SOUTH WALES



**Act No. 24, 1993**

An Act to amend the Electricity Act 1945 to constitute electricity distributors as bodies corporate, and to specify their functions; to provide for the dissolution of certain county councils constituted under the Local Government Act 1919 that are suppliers of electricity; to repeal the County Districts Reconstitution Act 1979; to make consequential amendments to certain Acts; and for other purposes. [Assented to 8 June 1993]

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Electricity (Amendment) Act 1993.

**Commencement**

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

**Amendment of Electricity Act 1945 (1946 No. 13)**

3. The Electricity Act 1945 is amended as set out in Schedules 1 and 2.

**Amendment of other Acts**

4. The Acts specified in Schedule 3 are amended as set out in that Schedule.

**Repeal of County Districts Reconstitution Act 1979 No. 185**

5. The County Districts Reconstitution Act 1979 is repealed.
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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS**

(Sec. 3)

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

- (a) From section 4 (1), omit the definitions of “Council”, “County district”, “Electricity council” and “Electricity supply authority”.
- (b) Insert in section 4 (1) in alphabetical order:
  - “**Distribution**” of electricity includes supply and reticulation of electricity.
  - “**Distribution district**” of an electricity distributor means its distribution district determined under this Act.
  - “**Electricity distributor**” means an electricity distributor constituted as a body corporate by this Act.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**“Electricity supply authority”** means a person or body engaged in the distribution of electricity to the public or in the generation of electricity for supply, directly or indirectly, to the public whether by statute, franchise agreement or otherwise and includes:

- (a) the Electricity Commission; or
- (b) an electricity distributor; or
- (c) Sydney Electricity; or
- (d) the State Rail Authority; or
- (e) the Water Administration Ministerial Corporation.

**“Reticulation”** of electricity means the provision of all conductors and other infrastructure and metering equipment necessary to allow the delivery of electricity from the point of connection of an electricity distributor’s assets to sources of electricity supply, to the point of connection of the distributor’s assets to the assets of an electricity consumer or of an electricity supply authority.

**“Supply”** of electricity means the delivery and sale to the supplier’s customers of electricity generated or purchased by the supplier.

**“Unincorporated Area”** means the aggregate of those parts of New South Wales that are not within a local government area.

(c) After section 4 (1), insert:

(2) A reference (however made or expressed) in this Act to any works or property of an electricity distributor includes a reference to any works or property of the Crown of which the distributor has the care, control or management.

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

Omit section 5 (4) (a) (ii)–(iv), insert instead:

- (i) Illawarra Electricity;
- (ii) Prospect Electricity;
- (iii) Shortland Electricity;

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(3) Part 2A:

After Part 2, insert:

**PART 2A—ELECTRICITY DISTRIBUTORS**

**Division 1—Constitution**

**Constitution of electricity distributors and their districts**

6. (1) Each body named in Schedule 7 is an electricity distributor constituted as a body corporate under that name.

(2) Each electricity distributor has the distribution district consisting of the local government areas or parts of local government areas, or the unincorporated area or parts of the unincorporated area, indicated beneath its name in Schedule 7. The word “(part)” appearing beside the name of an area specified in Schedule 7 indicates that, of that area, only the part prescribed by the regulations is included in the distribution district.

**Amendment of Schedule 7**

6A. (1) The regulations may do any one or more of the following:

- (a) create a new electricity distributor by inserting its name and distribution district in Schedule 7;
- (b) dissolve an electricity distributor by removing its name and distribution district from Schedule 7;
- (c) change the name or distribution district of any electricity distributor named in Schedule 7.

(2) The Minister is not to recommend the making of a regulation with respect to a matter specified in subsection (1) (b) or (c) except with the consent of the electricity distributor concerned or, if that consent is not forthcoming, after an inquiry under Part 5 of the Energy Administration Act 1987 has been held into the objectives of the proposed regulation.

(3) A regulation with respect to a matter specified in subsection (1) may contain savings and transitional provisions.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

**Application of this Act to Broken Hill and Tenterfield Councils**

6B. (1) The Broken Hill City Council or the Tenterfield Shire Council may, if the Minister so approves, exercise the functions of an electricity distributor.

(2) The Broken Hill City Council and the Tenterfield Shire Council are, in the exercise of any such functions, subject to this Act (except Division 4) as if they were electricity distributors.

(3) In applying this Act to the Broken Hill City Council or the Tenterfield Shire Council:

- (a) a reference in this Act to the distribution district of an electricity distributor is taken to be a reference to the area of the Council; and
- (b) a reference to the board of directors of an electricity distributor is taken to be a reference to the Council.

(4) Such other adaptations as are necessary may be prescribed by the regulations and the regulations may also provide for specified provisions of the Act not to apply to Broken Hill City Council or Tenterfield Shire Council.

**Division 2—Functions of an electricity distributor**

**Principal functions of electricity distributor**

6C. (1) An electricity distributor has the following principal functions:

- (a) the purchase, transmission and distribution of electricity;
- (b) the provision and maintenance of works for the distribution of electricity;
- (c) the protection of the public from dangers arising from the transmission, distribution and use of electricity;
- (d) the promotion of the safe and efficient use of electricity and electrical fittings and appliances;

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (e) the promotion of energy conservation and of measures to increase the efficiency of energy transmission and use;
- (f) such other functions as are approved by the Minister on the recommendation of the Corporation.

(2) An electricity distributor has such other functions as are conferred or imposed on it by or under this or any other Act.

**Ancillary functions of electricity distributor**

6D. (1) In the exercise of its functions, an electricity distributor may:

- (a) conduct any business and, for that purpose, use any property or the services of any staff of the distributor; and
- (b) generate electricity; and
- (c) acquire and develop land as necessary for the exercise of its functions, and dispose of land; and
- (d) acquire or build, and maintain and dispose of, any buildings, plant, machinery, equipment or vehicles; and
- (e) 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
- (f) make charges and impose fees for services performed and goods and materials supplied by it; and
- (g) appoint agents, and act as agents for other persons.

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

**Operations of electricity distributors**

6E. It is the duty of an electricity distributor, in the exercise of its functions related to the supply of electricity:

- (a) to carry out those functions efficiently and economically and to ensure that it has adequate internal audit procedures; and



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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

- (b) to promote standardisation of systems and equipment for the supply of electricity and electrical installations and other electrical equipment; and
- (c) except as permitted by or under this Act or by the Corporation, not to supply electricity to any person on terms or at rates different from those on which it supplies other persons having similar technical and quantity requirements and similar patterns of use of electricity.

**Exercise of functions outside district**

6F. An electricity distributor may not exercise its functions outside its distribution district except:

- (a) with the approval of the Minister, on the recommendation of the Corporation; and
- (b) on such terms and conditions as may be approved by the Minister, on the recommendation of the Corporation and after consultation with the electricity distributors whose distribution districts are affected.

**Delegation of functions**

6G. (1) An electricity distributor 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 the electricity distributor if the delegate is authorised in writing to do so by the distributor.

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

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

**Division 3—Electricity distributor policy and practice**

**Board to determine policies of electricity distributor etc.**

6H. (1) The board of directors of an electricity distributor has the function of determining the policies of the distributor.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

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

**Ministerial control of distributors**

6I. (1) The Minister may give the board of directors of an electricity distributor written directions in relation to the exercise of the distributor's functions.

(2) The board and the general manager of the electricity distributor must ensure that the distributor complies with any such direction, except as provided by this section.

(3) If the board considers that:

- (a) the electricity distributor would suffer a significant financial loss as a result of complying with the direction; and
- (b) the direction is contrary to the provisions of a performance agreement or is not in the commercial interests of the distributor,

the board may request the Minister to review the direction.

(4) A request for a review is to contain an estimate of the financial loss the board considers the electricity distributor 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 board requests a review, the electricity distributor 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 an electricity distributor suffers as a result of complying with a direction includes the amount of expenditure that the distributor incurs, and the amount of revenue that the distributor forgoes, as a result of complying with the direction which it would not otherwise incur or forgo.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

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

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

**Distributor to provide information to Minister**

6J. An electricity distributor 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.

**Tendering**

6K. (1) An electricity distributor is to invite tenders before entering into any of the following contracts:

- (a) a contract to carry out any work directed or authorised by or under any Act to be carried out by the distributor;
- (b) a contract to perform a service or to provide facilities directed or authorised by or under any Act to be performed or provided by the distributor;
- (c) a contract for providing goods or materials to the distributor;
- (d) a contract for disposal of property of the distributor;
- (e) a contract requiring the payment of instalments by or to the distributor over a period of 2 or more years.

(2) Tenders are to be invited, and invitations to tender are to be made, by public notice and in accordance with any provisions prescribed by the regulations.

(3) This section does not apply to the following contracts:

- (a) a contract entered into by an electricity distributor with the Crown (whether in right of the Commonwealth, New South Wales or any other State or a Territory), a Minister of the Crown or a statutory body representing the Crown;

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
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- (b) a contract entered into by an electricity distributor with an electricity supply authority;
- (c) a contract for the purchase or sale by an electricity distributor of land;
- (d) a contract for the leasing of land by an electricity distributor;
- (e) a contract for purchase or sale by an electricity distributor at public auction;
- (f) a contract for the purchase of goods, materials or services specified by the State Contracts Control Board or the Department of Administrative Services of the Commonwealth, made with a person so specified, during a period so specified and at a rate not exceeding the rate so specified;
- (g) a contract for the purchase of goods, materials or services entered into by an electricity distributor with a person on similar terms and conditions as agreed between the person and another electricity distributor for the purchase of goods, materials or services of that type if:
  - (i) the other electricity distributor invited tenders in accordance with this section; and
  - (ii) the contract is entered into within 12 months of the other electricity distributor accepting the person's tender;
- (h) a contract for the employment of a person as an employee of the electricity distributor;
- (i) a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, the electricity distributor decides (and records the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders;
- (j) a contract for which, because of provisions made by or under another Act, an electricity distributor is exempt from the requirement to invite a tender;

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

- (k) a contract made in a case of emergency;
- (l) a contract involving an estimated expenditure or receipt of an amount of less than \$100,000 or such other amount as may be prescribed by the regulations.

**Performance agreements**

6L. (1) The Minister and an electricity distributor, after consultation between them, may enter into a performance agreement.

(2) A performance agreement is to set operational performance targets for the electricity distributor 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) A performance agreement must include provision for a corporate plan, which may specify:

- (a) the separate business activities of the electricity distributor; 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 the distributor.

(4) The electricity distributor must, as far as practicable, exercise its functions in accordance with the performance agreement.

(5) The results of the electricity distributor's performance under a performance agreement during a financial year are to be included in the distributor's annual report relating to that year.

**Division 4—Constitution of boards**

**Board of directors**

6M. (1) There is to be a board of directors for each electricity distributor.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) Schedule 8 has effect in relation to each such board.

(3) Schedule 9 has effect in relation to board meetings.

**Constitution of board of electricity distributor**

6N. (1) The board of directors of an electricity distributor is to consist of:

(a) persons from either or both of the following categories:

(i) persons elected as prescribed by the regulations;

(ii) persons having managerial, commercial, financial, legal or other qualifications appointed, as prescribed by the regulations, on the nomination of the councils of the areas specified in Schedule 7 in relation to the distributor; and

(b) persons appointed by the Minister in accordance with subsection (2).

(2) The Minister may, from time to time, appoint:

(a) up to 2 persons as directors on the boards of directors of Prospect Electricity, Shortland Electricity and Illawarra Electricity; and

(b) 1 person as a director on the board of directors of any other electricity distributor.

(3) The number of directors (being not fewer than 5 and not more than 13) elected or appointed under subsection (1)

(a) is to be determined from time to time in respect of each electricity distributor by the Minister on the recommendation of the existing board (if any).

(4) The directors are to elect each year, from among themselves:

(a) a person to be Chairperson of the electricity distributor; and

(b) a person to be Deputy Chairperson of the distributor.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(5) A director appointed by the Minister under this section is not eligible to be the Chairperson or Deputy Chairperson of the distributor.

**Division 5—General manager and staff**

**General manager**

6O. (1) There is to be a general manager of each electricity distributor.

(2) The general manager of an electricity distributor is generally responsible for the efficient and effective operation of the distributor's organisation and for ensuring the implementation, without undue delay, of decisions of the distributor.

(3) The general manager has the following particular functions:

- (a) to exercise the day-to-day management of the electricity distributor;
- (b) to exercise such of the functions of the distributor as are delegated by the distributor to the general manager;
- (c) to appoint staff in accordance with an organisation structure and resources approved by the distributor;
- (d) to direct and dismiss staff;
- (e) to implement the distributor's equal employment opportunity management plan.

(4) The general manager has such other functions as may be conferred or imposed on the general manager by or under this or any other Act.

(5) Any act, matter or thing done in the name of, or on behalf of, an electricity distributor by its general manager, or with the authority of its general manager, is taken to have been done by the distributor.

**Employment of staff**

6P. Schedule 10 has effect in relation to the employment of staff of an electricity distributor.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Division 6—Finance**

**Establishment of funds**

6Q. An electricity distributor is required to establish the following funds:

- (a) a fund to be known as the General Fund;
- (b) a fund to be known as the Trust Fund.

**General Fund**

6R. (1) There is to be paid into the General Fund:

- (a) all money received by or on account of the electricity distributor, other than money that is required to be paid into the 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 the distributor or appropriated by Parliament for the purposes of the distributor; 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 General Fund:

- (a) the remuneration (including allowances) of the directors and staff of the electricity distributor; and
- (b) all payments made on account of the distributor or otherwise required to meet expenditure incurred in relation to the functions of the distributor; and
- (c) all other payments required by or under this or any other Act to be paid from the General Fund.

**Trust Fund**

6S. (1) There is to be paid into the Trust Fund:

- (a) all money held by the electricity distributor by way of deposit for any person (including deposits paid to secure a supply of electricity); and
- (b) all money held by the distributor 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.



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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
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- (2) There may be paid from the Trust Fund:
- (a) repayments of deposits referred to in subsection (1) (a) and interest on any such deposits; 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.

**Investment**

- 6T. An electricity distributor 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 the distributor:
    - (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.

**Accounting**

- 6U. (1) The regulations may provide for the application, with or without modification, of accounting methods, practices and principles by electricity distributors. In particular, provision may be made for or with respect to:
- (a) the keeping of accounts according to the principles of accrual accounting, using historical cost conventions; and
  - (b) application of the principles set out in the document published by the Office of Energy under the title "Code of Accounting Practice and Financial Reporting of Electricity Councils in New South Wales", or set out in any document prescribed by the regulations, as in force from time to time; and
  - (c) separate accounting in respect of the cost of reticulation activities; and
  - (d) the preparation, for inclusion in the annual report, of accounts of the remuneration and expenses of directors of an electricity distributor.
- (2) This section has effect subject to any other Act or law.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Banking**

6V. All money received on account of the General Fund or the Trust Fund is to be paid into a bank or banks in New South Wales.

**Financial year**

6W. (1) The financial year of an electricity distributor 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.

**Division 7—Entry and inspection**

**Definition**

6X. In this Division, “**authorised person**” means a person authorised for the purposes of a provision of this Act by an electricity distributor.

**Authorised persons**

6Y. (1) An electricity distributor may authorise a person to exercise any function conferred or imposed under this Part.

(2) The electricity distributor must issue to an authorised person a certificate of authority in a form approved by the distributor.

(3) An authorised person exercising or proposing to exercise a function conferred or imposed under any provision of this Part 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**

6Z. Subject to this Act and the regulations, an authorised person may enter on any land or buildings at all reasonable hours for the purpose of carrying out any of the functions of an electricity distributor under this Act, including:

- (a) installing, removing, maintaining, reading or adjusting any electricity property of the distributor, including metering equipment; or

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

- (b) checking if the electricity distributor's conditions relating to tariffs and to the use of electricity are being complied with.

**Notice of entry**

7. (1) Before an authorised person enters any land or building under a power conferred by this Division, the general manager 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 general manager has in writing authorised (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**

7A. (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 Division.

(2) The authority conferred by this section to use reasonable force must not be exercised in any case unless the general manager 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 general manager must specify the circumstances which are required to exist before force may be used.

**Notification of use of force or entry without notice**

7B. If an authorised person:

- (a) uses force for the purpose of gaining entry to any land or building; or

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

- (b) enters any land or building and notice of intention to enter as required by this Division was not served on the owner or occupier of the land or building,

the general manager 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 general manager or authorised person to be appropriate in the circumstances.

**Exercise of functions**

7C. In the exercise of a function conferred or imposed by this Division, 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**

7D. If an authorised person enters any land or building under this Division 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 the distributor on or in the land or building, the electricity distributor may recover the reasonable costs of the entry and inspection from the owner or occupier of the land or building.

**Compensation**

7E. (1) An electricity distributor must compensate all interested parties for any damage caused by it under this Division, 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.

**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*****Discontinuance of supply following refusal of access or obstruction**

7F. (1) If, after production of a written authority issued by the electricity distributor 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 the distributor for the purpose of installing, removing, examining, reading or adjusting any electricity metering equipment or for the purpose of checking if the distributor'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,

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

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

**Division 8—Miscellaneous****Acquisition of land**

7G. (1) An electricity distributor may, for the purposes of this Act, acquire land (including an interest in land) by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.

(2) An electricity distributor may not give a proposed acquisition notice under the Land Acquisition (Just Terms Compensation) Act 1991 without the approval of the Minister.

(3) For the purposes of the Public Works Act 1912, any such acquisition of land is taken to be for an authorised work and the distributor is, in relation to that authorised work, taken to be the Constructing Authority.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(4) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in respect of works constructed under this Act.

**Special purpose companies**

7H. (1) In this section:

“**special purpose company**” means a company in which electricity distributors have a controlling interest.

(2) For the purpose of carrying on a joint enterprise in relation to any of their functions, two or more electricity distributors may, with the approval of the Minister, form or participate in the formation of a special purpose company.

(3) An electricity distributor may, with the approval of the Minister:

- (a) acquire interests in a special purpose company; or
- (b) sell or otherwise dispose of interests in a special purpose company.

(4) The Minister must not grant an approval under this section unless satisfied that any guidelines for the time being issued by the Premier relating to the formation and operation of subsidiary companies are complied with.

**Discontinuance of supply for failure to pay**

7I. (1) If a person fails to pay an amount to an electricity distributor for electricity supplied by it, the distributor 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 the distributor in discontinuing the supply, are paid.

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

**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*****Power to break up roads etc.**

7J. (1) An electricity distributor may, on giving the notice or notices required by the regulations:

- (a) open and break up the soil and pavement of a public road or public reserve; and
- (b) open and break up any thing in or under a public road or public reserve; and
- (c) place structures on, over or beneath a public road or public reserve; and
- (d) erect an electric line or other thing relating to the distribution 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 an electricity distributor to comply with conditions in exercising its powers under subsection (1), including conditions for restoration of the surface and removal of rubbish.

(3) If an electricity distributor 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 the distributor.

**Building approvals for electricity distributor's equipment**

7K. (1) To the extent to which the erection or placement of any pipe, wire, pole, cable or other structure or thing (but not a building) to be erected or placed by an electricity distributor requires approval under Part 11 of the Local Government Act 1919, that approval may be given by the distributor, which need not obtain the approval of the local government council.

(2) The electricity distributor is to have regard, in considering whether an approval under this section is appropriate, to the provisions of Part 11 of the Local Government Act 1919 and of any ordinances made for the purposes of that Part of that Act.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Charges for placement of distributor's equipment**

7L. No annual or other periodic or special charge is payable by an electricity distributor to a local government council for or in respect of any pipe, wire, pole, cable or other structure or thing erected or placed by the distributor in the council's area or for or in respect of the space that it occupies.

**Altering position of conduit of another authority**

7M. (1) If:

- (a) an electricity distributor, 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,

the distributor 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 the electricity distributor to pay the reasonable cost of the alteration.

(3) If the alteration is not made as required by the notice, the electricity distributor 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**

7N. (1) If a person places a structure or other thing in or near a work of an electricity distributor in such a manner as to interfere with or damage the work, the distributor may:

- (a) demolish and remove the structure or other thing; and
- (b) repair the work; and



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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(c) recover the cost of doing so as a debt owing to the distributor by the person who placed the structure or other thing there.

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

**Distributor's fittings not to be taken in execution**

7O. (1) If any electric line, meter, fitting, insulator, apparatus or work of an electricity distributor is placed in or on any place or building (not being in the possession of the distributor) 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 an electricity distributor.

**Waiver or refund of charges etc. by distributor**

7P. An electricity distributor may waive or refund the whole or any part of any charge, fee or money due to the distributor in any particular case or in any class of cases.

**Presumption of validity**

7Q. The exercise of a function by an electricity distributor or a delegate of the distributor is not invalidated because it is exercised in contravention of a direction by the Minister.

**Personal liability of directors etc.**

7R. A matter or thing done or omitted by an electricity distributor, a director of an electricity distributor, the general manager or any person acting under the direction of an electricity distributor, the board or the general manager 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 general manager or a person so acting personally to any action, liability, claim or demand.

**Industry associations**

7S. An electricity distributor may join any industry association.

**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*****Trading names**

7T. An electricity distributor may, with the approval of the Minister, adopt a trading name.

**Seal of distributor**

7U. The seal of an electricity distributor is to be kept by the general manager 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 general manager (or a person authorised for that purpose by the general manager); and
- (b) with an attestation by the signature of the general manager or that authorised person of the fact of the affixing of the seal.

**Service of documents on electricity distributor**

7V. (1) A document may be served on an electricity distributor by leaving it at, or by sending it by post to:

- (a) the office of the distributor; 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 an electricity distributor in any other manner.

**Recovery of charges etc. by electricity distributor**

7W. Any charge, fee or money due to an electricity distributor may be recovered by the distributor as a debt in a court of competent jurisdiction.

**Minister may direct transfer of assets etc. of electricity distributor**

7X. (1) The Minister may, by order in writing, direct that any asset, right or liability of an electricity distributor whose distribution district is changed by regulation under section 6A (“**the transferor distributor**”) be transferred to another electricity distributor (“**the transferee distributor**”).

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(2) When any such asset, right or liability is transferred by an order under this section, the following provisions have effect (subject to the order directing the transfer):

- (a) any asset of the transferor distributor specified in the order vests in the transferee distributor by force of this section and without the need for any conveyance, transfer, assignment or assurance;
- (b) any right or liability of the transferor distributor specified in the order becomes by force of this section a right or liability of the transferee distributor;
- (c) all proceedings relating to the asset, right or liability commenced before the transfer by or against the transferor distributor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee distributor;
- (d) anything done or omitted to be done in relation to that asset, right or liability before the transfer by, to or in respect of the transferor distributor is (to the extent that it has any force or effect) taken to have been done or omitted to be done by, to or in respect of the transferee distributor;
- (e) a reference in any other Act, in any instrument made under any Act or in any document of any kind to the transferor distributor is (to the extent that it relates to that asset, right or liability) to be read as, or as including, a reference to the transferee distributor.

(3) The operation of this section 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.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(4) The operation of this section is not to be regarded as an event of default under any contract or other instrument.

(5) No attornment to the transferee distributor by a lessee from the transferor distributor is required.

(6) Any instrument executed only for:

(a) a purpose ancillary to or consequential on the operation of this section; or

(b) the purpose of giving effect to this section,  
is not chargeable with stamp duty.

**Dissolution of county councils**

7Y. (1) The Governor may, by proclamation published in the Gazette:

(a) dissolve a county council that has electricity functions;  
or

(b) declare that, as from the date of its publication (or from a later date specified in the proclamation) a county council or local government council has no authority to exercise electricity functions.

(2) A proclamation made in accordance with subsection (1) (b) does not preclude the affected county council or local government council from exercising electricity functions in accordance with a contract entered into with its corresponding electricity distributor (as defined in Schedule 11), but otherwise has effect in accordance with its tenor.

(3) In this section, “**electricity functions**” means the generation, transmission, distribution, reticulation or supply of electricity.

(4) **Parts 2B (Electricity Councils) and 2C (Subsidiaries of Electricity Councils):**

Omit the Parts.

(5) **Sections 11 (Corporation to formulate proposals relating to electricity), 12 (Constitution of county districts):**

Omit the sections.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (6) Section 13A (**Corporation may direct supply authority as to charges for and terms of supply**):  
Omit section 13A (4).
- (7) Section 14 (**Corporation may fix charges for bulk electricity etc.**):
- (a) From section 14 (1) and (2), omit “electricity councils” wherever occurring, insert instead “electricity distributors or Sydney Electricity”.
  - (b) From section 14 (3), omit “An electricity council”, insert instead “An electricity distributor or Sydney Electricity”.
  - (c) From section 14 (4), omit “An electricity council which contravenes this section”, insert instead “If an electricity distributor or Sydney Electricity contravenes this section, it”.
- (8) Section 14AAE (**Application of Part to subsidiaries of electricity distributors**):  
Omit “section 7W”, insert instead “section 7H”.
- (9) Section 14F (**Payment of subsidies for pensioner rebates out of Electricity Development Fund**):  
From section 14F (1), omit “Prospect County Council, Shortland County Council or Illawarra County Council”, insert instead “Prospect Electricity, Shortland Electricity or Illawarra Electricity”.
- (10) Section 14G (**Supply authority to write off rebates**):  
Omit “or in any ordinance under the Local Government Act 1919”.
- (11) Section 15 (**Electricity Development Fund**):
- (a) From section 15 (2) (a), omit “electricity council”, insert instead “electricity distributor, Sydney Electricity”.
  - (b) Omit section 15 (2) (f), insert instead:
    - (f) contributions under subsection (2A).

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(c) After section 15 (2), insert:

(2A) An electricity distributor or Sydney Electricity may with the approval of the Minister (and is required to, if the Minister on the recommendation of the Corporation so directs), in accordance with any conditions imposed by the Minister, contribute to the Fund by way of loan to the Corporation for the purposes of the Fund. The Corporation may apply any such contributions for those purposes in accordance with those conditions.

(12) Section 16 (**Application of Electricity Development Fund**):

(a) From section 16 (1) (a), omit “electricity councils” wherever occurring, insert instead “electricity distributors or Sydney Electricity”.

(b) From section 16 (1) (a) (ii), omit “a council”, insert instead “any of them”.

(c) Omit section 16 (1) (b), insert instead:

(b) amounts to electricity distributors or Sydney Electricity in accordance with section 15 (2A);

(d) From section 16 (1) (c), omit “electricity councils”, insert instead “electricity distributors, Sydney Electricity”.

(e) From section 16 (2), omit “electricity council”, insert instead “electricity distributor or Sydney Electricity”.

(13) Section 18 (**Agreements as to grants, subsidies etc.**):

Omit “electricity council” wherever occurring, insert instead “electricity distributor or Sydney Electricity”.

(14) Section 19AB (**Contributions by electricity distributors, Sydney Electricity and Commission**):

From section 19AB (1), omit “Electricity councils”, insert instead “An electricity distributor, Sydney Electricity”.

(15) Section 19A (**Definitions**):

Omit the definition of “Council”.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(16) Section 19G (**Director may direct electricity distributor to remove structure**):

- (a) From section 19G (1), omit “a council”, insert instead “an electricity distributor or Sydney Electricity”.
- (b) From section 19G (1), omit “the council” where firstly occurring, insert instead “the distributor or Sydney Electricity”.
- (c) From section 19G (1), omit “the area of the council”, insert instead “its distribution district”.
- (d) From section 19G (2), omit “A council”, insert instead “An electricity distributor or Sydney Electricity”.

(17) Section 25 (**Power of entry**):

- (a) From section 25 (1), omit “electricity council”, insert instead “electricity distributor or Sydney Electricity”.
- (b) From section 25 (4), omit “electricity supply authority”, insert instead “electricity distributor or Sydney Electricity”.

(18) Part 5A:

After Part 5, insert:

**PART 5A—CONDITIONS OF ELECTRICITY  
SUPPLY**

**Definitions**

26A. In this Part:

“**capacity increase**” means increase in the capacity of an electricity distributor’s electricity distribution system (whether by extension or amplification of mains or otherwise);

“**customer**” means a person who applies for or receives supply of electricity from an electricity distributor;

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**“customer’s installation”** means all the customer’s electric wires, cables, appliances, fittings and insulated apparatus installed and used for, or for purposes incidental to, the conveyance, measurement, control or use of electricity supplied or intended to be supplied by an electricity distributor but does not include:

- (a) any electricity supply main or service line, meter or apparatus that is the property of the distributor and is used solely for the conveyance, measurement or control of electricity supplied to any premises; or
- (b) any movable electrical equipment;

**“general conditions of supply”** means the general conditions of supply in force for the time being under this Part;

**“metering equipment”** means instruments and equipment used to measure the quantity of or the demand for electricity supplied to a customer by an electricity distributor, and includes equipment such as time switches, relays, contactors and the like used to control that supply;

**“point of connection”** means the point at which an electricity distributor’s street mains or works are attached to the customer’s installation;

**“service equipment”** means equipment supplied and installed as provided by this Part;

**“service line”** means an overhead or underground cable operating at a voltage not exceeding 650 volts and located between an electricity distributor’s street mains or works and a customer’s point of connection.

**Entitlement to supply by electricity distributor**

26B. (1) A person who applies to an electricity distributor is entitled to be provided with electricity supply or capacity increase if the person either meets the cost of connection to supply or makes a contribution to that cost in accordance with guidelines issued from time to time by the Energy Corporation in consultation with the Government Pricing Tribunal.



**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) Any person aggrieved by the amount of any cost or contribution payable under subsection (1) may appeal in accordance with the regulations.

(3) The regulations may make provision for or with respect to:

- (a) what appeals under subsection (2) may be refused on the face of the appeal; and
- (b) the referral of the appeal to an arbitrator, whose decision is to be final and binding on the appellant and the distributor concerned; and
- (c) the application by any such arbitrator of principles determined by the Minister with respect to capital costs and contributions; and
- (d) the costs of arbitration and the necessity of its availability to persons of poor means.

(4) A person's entitlement under this section to a supply of electricity is subject to any right of the electricity distributor under this Act or the regulations to refuse, suspend or discontinue supply to the person.

**Formulation of general conditions of supply**

26C. (1) An electricity distributor must formulate general conditions of supply that make provision for or with respect to the conditions applicable to the supply of electricity by the distributor, and may amend those conditions (by substituting, varying, revoking or adding to them) from time to time.

(2) The matters for which the general conditions of supply must make provision include the following:

- (a) the charges for electricity supplied and the payment of those charges;
- (b) the payments to be made by a customer for any installation work done or to be done by the distributor on a customer's premises or incidental to the provision of a supply of electricity to the customer;

**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

- (c) the proper care and custody of any metering or other equipment installed by the distributor;
- (d) such other matters as may be provided for, under this Part, in the general conditions of supply;
- (e) installation and servicing requirements.

(3) The general conditions of supply (and any amendment of them) are to be publicly notified by notification published in a newspaper circulating generally in the region of the electricity distributor and take effect on publication of the notification or on such later date as may be specified in the notification.

(4) The provisions of the general conditions of supply must not be inconsistent with the provisions of this Act.

(5) An electricity distributor is to ensure that a copy of the general conditions of supply is available for inspection by any person free of charge at each office of the distributor during ordinary office hours.

**Conditions applicable to supply of electricity**

26D. (1) A person who applies for or receives supply of electricity from an electricity distributor is to be considered to have entered into an agreement with the distributor containing the provisions of the general conditions of supply as in force from time to time.

(2) Subsection (1) applies to a person even if supply to the person commenced before the commencement of this Part.

(3) An electricity distributor may require a person who applies for supply of electricity to enter into an agreement (an “**alternative agreement**”) with the distributor that makes provision for or with respect to any of the matters for which the general conditions of supply may make provision.

(4) A person who enters into an alternative agreement with an electricity distributor is not subject to the general conditions of supply except to the extent that the alternative agreement otherwise provides.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(5) An electricity distributor is entitled to refuse, suspend or discontinue supply of electricity to a person who contravenes any provision of the general conditions of supply, any alternative agreement applicable to the person or any requirement imposed on the person under the general conditions of supply or any such alternative agreement.

**Requirement for security**

26E. (1) An electricity distributor may require a customer to give security for payment of all sums due to it or that may become due to it from the customer.

(2) The general conditions of supply may make provision with respect to such security.

**Metering equipment**

26F. (1) An electricity distributor may require the installation of such metering equipment as it thinks necessary for ascertaining the quantity of or demand for electricity supplied to a customer.

(2) For that purpose the electricity distributor may do any of the following:

- (a) supply and install, or arrange for the supply and installation of, metering equipment;
- (b) require the customer to supply and install metering equipment;
- (c) require the customer to make provision for the supply, mounting and installation of metering equipment.

(3) An electricity distributor may require the customer to pay the whole or any part of the cost of the supply and installation of metering equipment.

(4) The position and standards of installation of metering equipment are to be as determined by the electricity distributor.

**Service equipment**

26G. (1) An electricity distributor may require the installation of such equipment (“**service equipment**”) as it thinks necessary for or reasonably incidental to the provision of a supply of electricity to a customer.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) For that purpose the electricity distributor may do any of the following:

- (a) supply and install, or arrange for the supply and installation of, service equipment;
- (b) require the customer to supply and install service equipment;
- (c) require the customer to make provision for the supply, mounting and installation of service equipment.

(3) An electricity distributor may require the customer to pay the whole or any part of the cost of the supply and installation of service equipment.

(4) The position and standards of installation of service equipment are to be as determined by the electricity distributor.

**Sealing of equipment**

26H. An electricity distributor may affix seals to a customer's installation if of the opinion it is necessary or desirable to do so.

**Estimation of electricity supplied but not properly registered**

26I. (1) This section applies in the following cases:

- (a) an electricity distributor finds that metering equipment has ceased to register or has ceased to register correctly the quantity of or demand for electricity supplied;
- (b) an electricity distributor finds that electricity has been supplied without passing through metering equipment;
- (c) an electricity distributor finds that metering equipment registering supply is no longer of the appropriate rating to register the quantity of or demand for electricity supplied;
- (d) a person is convicted of an offence under section 30.

(2) The electricity distributor may estimate the quantity of or demand for electricity supplied but not registered:

- (a) in a case referred to in subsection (1) (a), (b) or (c), for any period of up to 6 months before the finding was made; or

**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(b) in a case referred to in subsection (1) (d), for any period for which the person convicted of the offence abstracted, caused to be wasted or diverted, consumed or used electricity that was not properly registered.

(3) The customer, or in the case of a conviction under section 30, the person convicted is liable to pay for the electricity so estimated.

(4) Metering equipment is to be regarded as not registering correctly if (and only if) its error in registration is greater than 2%, either in excess or deficiency.

**Service lines**

26J. (1) An electricity distributor may require the installation of such service lines as it thinks necessary to provide a supply of electricity to a customer.

(2) For that purpose the electricity distributor may do any of the following:

- (a) supply and install, or arrange for the supply and installation of, a service line;
- (b) require the customer to supply and install a service line;
- (c) require the customer to make such provision as the distributor decides is necessary for the attachment of any service line.

(3) An electricity distributor may require the customer to pay the whole or any part of the cost of the supply and installation of a service line.

(4) The type, construction and route of a service line and the point of connection are to be as determined by the electricity distributor.

(5) An electricity distributor may require a customer to be provided with more than one point of connection if the distributor thinks it necessary to avoid interference with the supply of electricity to any other customer.

**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*****Imposition of requirements as to installation and use of apparatus etc.**

26K. (1) An electricity distributor may:

- (a) impose such requirements as to the installation and use of electrical appliances and equipment by the customer as the distributor thinks necessary or desirable to prevent or minimise adverse effects on the supply to other customers; and
- (b) impose requirements relating to loading of and the balancing of the load over the phases of the customer's supply; and
- (c) impose requirements relating to the location and accessibility of metering and service equipment relating to supply to the customer; and
- (d) impose requirements as to the minimum rupture rating or minimum breaking capacity of the customer's main protective devices; and
- (e) require the customer to install relays, current transformers and other protective equipment having characteristics to suit the distributor's protective system.

(2) A customer must comply with any requirement imposed on the customer under this section.

(3) The general conditions of supply may make provision for or with respect to any of the matters referred to in subsection (1).

**Unauthorised connections**

26L. (1) A person must not without the permission of the electricity distributor:

- (a) connect a customer's installation to an electricity distributor's mains; or
- (b) connect an addition or alteration to a customer's installation so as to cause the supply of electricity to the installation or any part of it to be incorrectly metered.

**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) An electricity distributor may (without prejudice to any other remedy available to it) discontinue the supply of electricity to a customer's installation which is connected in contravention of this section until supply can be provided in accordance with this Part.

**Installation of transformers etc. on customer's premises**

26M. (1) This section applies when the supply of electricity required by a customer is, in the opinion of the electricity distributor, in excess of that which can be provided by service line from its street mains and supply can best be given by installing transformers, switchgear and other equipment on the premises to be supplied.

(2) In such a case, the electricity distributor may require the customer to provide free of cost, for use of the distributor, a place within those premises to accommodate the transformers, switchgear and other equipment that the distributor is of the opinion should be installed.

(3) The place provided must be a place that is considered suitable by the electricity distributor and must be enclosed in a manner approved by the distributor.

**Recovery of costs of increasing capacity of system**

26N. (1) An electricity distributor may require a person who applies for supply of electricity or for an increase in supply of electricity to pay or agree to pay the whole of a specified part of the reasonable costs incurred or to be incurred by the distributor in capacity increase, being capacity increase:

- (a) that has been or will be necessary to supply electricity or increase the supply of electricity to the customer; or
- (b) that took place in the 6 years prior to the customer's connection to supply or application for an increase in supply and would have been necessary to supply electricity or to increase the supply of electricity to the customer.

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(2) An electricity distributor must not require payments from 2 or more persons under this section in respect of any particular capacity increase that in total exceed the reasonable costs incurred or to be incurred by the distributor in respect of the capacity increase.

(3) An electricity distributor may, in the prescribed circumstances, refund any payment made in accordance with this section.

(4) An electricity distributor may enter into agreements for the purposes of this section.

**Interruption to supply for maintenance etc.**

26O. An electricity distributor is entitled to interrupt the supply of electricity to a customer at such reasonable times as the distributor may decide for the purpose of inspecting, testing or carrying out repairs or maintenance work on the electricity distribution system or for such other purpose as the distributor considers necessary for the safe and efficient operation of that system.

**Liability for failure to supply**

26P. An electricity distributor is not liable for any loss suffered by any person as a consequence of any failure to supply electricity, or of any defect in that supply, if the failure or defect is caused by the breakdown of machinery or equipment or by causes not within the distributor's control.

**Customer to give 48 hours' notice of discontinuance of supply**

26Q. (1) A customer must give the electricity distributor not less than 48 hours' notice of the customer's desire that the supply of electricity to the customer be discontinued.

(2) If that notice is not given, the customer remains liable for all charges (including minimum charges) in respect of the supply concerned until 48 hours after the electricity distributor becomes aware of the customer's desire that supply be discontinued or until the distributor discontinues or transfers that supply, whichever happens first.



SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Offences**

26R. Unless authorised to do so by an electricity distributor, a person must not:

- (a) wilfully destroy, damage or interfere with any metering equipment, service equipment, line, post, pillar, lamp fitting, installation or other thing that is the property of the distributor and relates to electricity distribution; or
- (b) alter or attempt to alter the register of any metering equipment or in any way prevent or attempt to prevent any metering equipment from correctly registering the quantity of or demand for electricity supplied by the distributor.

Maximum penalty: 50 penalty units.

**Refusal etc. of supply for contravention of this Part**

26S. An electricity distributor is entitled to refuse, suspend or discontinue supply of electricity to a person who contravenes any provision of this Part.

**Application of this Part to Sydney Electricity**

26T. This Part applies to Sydney Electricity in the same way as to an electricity distributor, but so applies:

- (a) as if a reference in this Part to the distribution district of an electricity distributor were a reference to the Sydney Electricity District; and
- (b) with such other adaptations as may be prescribed by the regulations.

(19) Section 27 (**Restrictions on supply of electricity**):

Omit section 27 (1).

(20) Section 27AA (**Restrictions on certain works**):

- (a) In section 27AA (1), after “line”, insert “or any reticulation system”.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (b) Omit section 27AA (2), insert instead:
- (2) This section:
    - (a) does not apply to the Electricity Commission; and
    - (b) in respect of transmission lines, does not apply to an electricity distributor or Sydney Electricity; and
    - (c) in respect of reticulation systems, does not apply to an electricity distributor or Sydney Electricity.
- (21) Section 27AB (**Approvals**):
- (a) From section 27AB (a), omit “valid; and”, insert instead “valid.”.
  - (b) Omit section 27AB (b).
- (22) Section 27AC (**Offences**):
- (a) From section 27AC (2), omit “a council”, insert instead “an electricity distributor or Sydney Electricity”.
  - (b) From section 27AC (2), omit “with the permission of the relevant council and”.
  - (c) Omit section 27AC (3).
- (23) Section 28A (**Electricity supply authorities—personal liability of members etc.**):
- Omit the section.
- (24) Section 37 (**Regulations**):
- (a) From section 37 (2) (a1), (a2), (ee), (ff) and (gg), omit “electricity councils” wherever occurring, insert instead “electricity distributors”.
  - (b) From section 37 (2) (b1), omit “and assistant general managers of county councils that are electricity councils”, insert instead “of electricity distributors”.
  - (c) From section 37 (2) (hh), omit “and” where lastly occurring.
  - (d) After section 37 (2) (ii), insert:
    - (jj) capital contributions to be made by customers to electricity distributors or Sydney Electricity in respect of works and connections, and the resolution, by arbitration or otherwise, of disputes arising in relation to such contributions;

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (kk) the provision, to the owners and occupiers of land, of information concerning the nature, purpose and effect of easements vested in or to be vested in an electricity supply authority;
  - (ll) the appointment of deputies of directors of an electricity distributor;
  - (mm) the transmission, distribution, reticulation or use of electricity;
  - (nn) offences relating to the distribution and use of electricity and any works or property of an electricity distributor or Sydney Electricity;
  - (oo) requiring the carrying out of work to remove a danger or to remedy a defect relating to the distribution, transmission or use of electricity within a distribution district;
  - (pp) the opening of the surface of roads;
  - (qq) restricting or regulating the removal or trimming of trees by an electricity distributor or Sydney Electricity; and
  - (rr) the application to an electricity distributor, with or without modification, of a specified provision of the Local Government Act 1919 or of any ordinance made under that Act.
- (e) Omit section 37 (3), insert instead:
- (3) A regulation may create an offence punishable by a penalty not exceeding:
    - (a) 200 penalty units in the case of a body corporate; or
    - (b) 100 penalty units in any other case.

(25) Section 39:

After section 38, insert:

**Savings, transitional and other provisions**

39. Schedule 11 has effect.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(26) Schedules 7–11:

Omit Schedule 7, insert instead:

**SCHEDULE 7—ELECTRICITY DISTRIBUTORS**

(Sec. 6)

Central West Electricity

Cabonne Shire (part)

Cowra Shire

Forbes Shire

Lachlan Shire

Parkes Shire

Weddin Shire

Illawarra Electricity

Bega Valley Shire

Eurobodalla Shire

Kiama Municipality

Shellharbour Municipality

Shoalhaven City

Wingecarribee Shire

Wollongong City

Monaro Electricity

Bombala Shire

Cooma-Monaro Shire

Snowy River Shire

Murray River Electricity

Albury City

Balranald Shire

Berrigan Shire

Conargo Shire

Corowa Shire

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

Deniliquin Municipality

Hume Shire

Jerilderie Shire

Murray Shire

Wakool Shire

Wentworth Shire

Windouran Shire

Murrumbidgee Electricity

Carrathool Shire

Griffith City

Hay Shire

Leeton Shire

Murrumbidgee Shire

Narrandera Shire (part)

Namoi Valley Electricity

Brewarrina Shire

Bourke Shire

Gunnedah Shire

Narrabri Shire

Unincorporated area (part)

Walgett Shire

New England Electricity

Armidale City

Dumaresq Shire

Uralla Shire (part)

Walcha Shire

North West Electricity

Bingara Shire

Glen Innes Municipality

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

Guyra Shire  
Inverell Shire  
Moree Plains Shire  
Severn Shire  
Uralla Shire (part)  
Yallaroi Shire

Northern Riverina Electricity

Bland Shire  
Coolamon Shire  
Cootamundra Shire  
Junee Shire  
Narrandera Shire (part)  
Temora Shire

Northern Rivers Electricity

Ballina Shire  
Bellingen Shire  
Byron Shire  
Casino Municipality  
Coffs Harbour City  
Copmanhurst Shire  
Grafton City  
Kyogle Shire  
Lismore City  
Maclean Shire  
Nambucca Shire  
Nymboida Shire  
Richmond River Shire  
Tweed Shire  
Ulmarra Shire

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

Ophir Electricity

Blayney Shire

Cabonne Shire (part)

Orange City

Oxley Electricity

Great Lakes Shire (part)

Greater Taree City

Hastings Municipality

Kempsey Shire

P-CCC Electricity

Barraba Shire

Manilla Shire

Murrurundi Shire

Nundle Shire

Parry Shire

Quirindi Shire

Tamworth City

Prospect Electricity

Baulkham Hills Shire

Blacktown City

Blue Mountains City

Camden Municipality

Campbelltown City

Fairfield City

Greater Lithgow City

Hawkesbury City

Holroyd City

Liverpool City

Parramatta City

Penrith City

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

Rylstone Shire  
Wollondilly Shire

Shortland Electricity  
Cessnock City  
Dungog Shire  
Gloucester Shire  
Great Lakes Shire (part)  
Lake Macquarie City  
Maitland City  
Merriwa Shire (part)  
Muswellbrook Shire  
Newcastle City  
Port Stephens Shire  
Scone Shire  
Singleton Shire

South West Slopes Electricity  
Boorowa Shire  
Harden Shire  
Young Shire

Southern Mitchell Electricity  
Bathurst City  
Evans Shire  
Mudgee Shire (part)  
Oberon Shire

Southern Riverina Electricity  
Culcairn Shire  
Holbrook Shire  
Lockhart Shire  
Urana Shire  
Wagga Wagga City



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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

Southern Tablelands Electricity

Crookwell Shire

Goulburn City

Gunning Shire

Mulwaree Shire

Queanbeyan City

Tallaganda Shire

Yarrowlumla Shire

Yass Shire

Tumut River Electricity

Gundagai Shire

Tumbarumba Shire

Tumut Shire

Ulan Electricity

Coolah Shire

Coonabarabran Shire

Merriwa Shire (part)

Mudgee Shire (part)

Western Power

Bogan Shire

Cobar Shire

Coonamble Shire

Dubbo City

Gilgandra Shire

Narromine Shire

Warren Shire

Wellington Shire

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**SCHEDULE 8—BOARDS OF DIRECTORS**

(Sec. 6M)

**Definitions**

1. In this Schedule:

“**appointed director**” means a member of the board of an electricity distributor appointed by the Minister under section 6N;

“**elected director**” means a member of the board of an electricity distributor elected or appointed under section 6N as prescribed by the regulations.

**Chairperson of electricity distributor**

2. (1) The board of directors of an electricity distributor may, with the approval of the Minister, remove a director from the office of Chairperson or Deputy Chairperson of the distributor at any time.

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

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

(3) The Chairperson’s or Deputy Chairperson’s term of office is 12 months, after which time he or she (if otherwise qualified) is eligible for re-election.

**Terms of office of directors**

3. (1) Subject to this Schedule, an elected director holds office until the director’s successor is elected or appointed.

(2) Subject to this Schedule, an appointed director holds office for such period (not exceeding 3 years) as may be specified in the instrument of appointment of the director.

**Remuneration**

4. A director of an electricity distributor:

- (a) is entitled to be paid such remuneration as the Minister may from time to time determine in respect of the director; and

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (b) is entitled to be paid such travelling and subsistence allowances as the board may from time to time determine in respect of the director.

**Vacancy in office of directors**

5. (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 under this Act; or
- (e) is absent from 4 consecutive meetings of the board of which reasonable notice has been given to the director personally or in the ordinary course of post, except on leave granted by the board or unless, before the expiration of 4 weeks after the last of those meetings, the director is excused by the board 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 hold the qualifications necessary for election or appointment to the position.

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

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Disclosure of pecuniary interests**

6. (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 board of 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 board.

(2) A disclosure by a director at a meeting of the board 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 board 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 board.

(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 board with respect to the matter; or
- (b) take part in any decision of the board with respect to the matter.

**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(5) For the purpose 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 board.

(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 the distributor) 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**

7. (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 elected director; or
- (b) at any other time—the vacancy is to be filled as soon as practicable (but, in any event, within 3 months) at an election, or by appointment, in accordance with regulations made for the purposes of section 6N (1) (a).

(2) The Minister may appoint a person who is qualified for appointment 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.

**Dismissal of board**

8. (1) The Minister may, in circumstances prescribed by the regulations, dismiss an entire board from office.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

- (2) Regulations made for the purposes of this clause:
- (a) may make provision for or with respect to a public inquiry into the affairs of the board; and
  - (b) may make provision for the appointment, functions and dismissal of an administrator; and
  - (c) must make provision for the election or appointment of a new board within 12 months of the board's dismissal.

**Effect of certain other Acts**

9. (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 9—BOARD MEETINGS**

(Sec. 6M)

**General procedure**

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

**Quorum**

2. The quorum for a meeting of the board is the number of directors prescribed by the regulations.

**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*****Presiding member**

3. (1) The Chairperson of an electricity distributor or, in the absence of the Chairperson, the Deputy Chairperson, is to preside at a meeting of the board.

(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 board.

(3) The person presiding at any meeting of the board 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 board at which a quorum is present is the decision of the board.

**Transaction of business outside meetings or by telephone etc.**

5. (1) The board may, if it thinks fit, transact any of its business by the circulation of papers among all the directors 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 board.

(2) The board may, if it thinks fit, transact any of its 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 as they have at an ordinary meeting of the board.

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

(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.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

**Attendance of general manager at meetings**

6. (1) The general manager of an electricity distributor has the right to attend meetings of the board and to take part in discussions at those meetings as if the general manager were a director, but is not entitled to vote on any question which is to be decided by a vote of the directors.

(2) A general manager is not entitled to be present at any meeting of the board during any discussion which concerns the appointment, dismissal, salary or conditions of employment of the general manager.

(3) A general manager is to:

- (a) attend any meeting of the board at which the general manager is required by the board to attend; and
- (b) give to the board any advice and assistance reasonably required by the board, and for the purpose is to arrange for the attendance at such a meeting of such employees of the electricity distributor as may be necessary, having regard to the business to be transacted at the meeting.

**First meeting**

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

**SCHEDULE 10—STAFF OF ELECTRICITY  
DISTRIBUTORS**

(Sec. 6P)

**PART 1—STAFF GENERALLY**

**Appointment, salary, conditions etc. of staff**

1. (1) An electricity distributor may employ such staff as it requires to exercise its functions.

(2) An electricity distributor 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.



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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Regulations relating to staff**

2. (1) The regulations may make provision for or with respect to the employment of the staff of an electricity distributor, 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 the electricity distributor is a party; and

(b) have effect despite any determination of the distributor.

**Use of staff or facilities of departments etc.**

3. An electricity distributor may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of another electricity distributor, a government department, an administrative office or a public or local authority.

**Consultants**

4. An electricity distributor may engage such consultants as it requires to exercise its functions.

**PART 2—ORGANISATION STRUCTURE**

**Determination of structure**

5. (1) An electricity distributor must determine:

(a) an organisation structure; and

(b) those positions within the organisation structure that are senior staff positions (including senior management staff positions); and

(c) the resources to be allocated towards the employment of staff.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) An electricity distributor may not determine a position to be a senior staff position if the remuneration for the position is less than:

- (a) the commencing rate of pay for the classification of Executive Support Officer in the County Councils (Electricity Undertakings) Classification and Rates of Pay (State) Award as in force at the commencement of this clause; or
- (b) such other amount as may be prescribed by the regulations.

**Re-determination of structure**

6. The organisation structure may be re-determined by the distributor from time to time.

**PART 3—THE GENERAL MANAGER AND  
SENIOR STAFF**

**General manager of an electricity distributor**

7. (1) The Governor may, on the recommendation of the Minister and the nomination of the board of directors of an electricity distributor, appoint a person so recommended and nominated to be the general manager of the distributor.

(2) The general manager of an electricity distributor is taken, while holding that office, to be employed by the distributor. However, the distributor may not remove the general manager from office.

(3) A person is not to be nominated by an electricity distributor for appointment as the general manager unless:

- (a) the position has been advertised and the proposed appointment notified as required by the regulations (if any); and
- (b) the person has suitable executive, technical and administrative experience and qualifications; and
- (c) the person is the most meritorious applicant for the position.

(4) If a vacancy occurs in the position of general manager of the electricity distributor, a person must, in accordance with this clause, immediately be appointed to or to act in the vacant position.

**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(5) The board may appoint a person to act, for a period of not more than 6 months at any one time, in the office of general manager during the illness or absence of the general manager (or during a vacancy in the office of general manager) and the person, while so acting, has all the functions of the general manager and is taken to be the general manager.

(6) The Governor may, at any time, remove a person from office as general manager on the recommendation of the Minister and at the request of the board.

(7) The board may, at any time, remove a person from office as acting general manager.

(8) A director of the board is not to be appointed as general manager or acting general manager.

**Distributor to be consulted as to appointment and dismissal of senior management staff**

8. The general manager of an electricity distributor may appoint or dismiss senior management staff only after consultation with the board of directors of the distributor.

**Terms of employment for senior staff**

9. Subject to this Act, the appointment and terms of employment of senior staff of an electricity distributor are to be in accordance with any guidelines issued by the Minister.

**Nature of contracts for general manager and senior staff**

10. (1) The general manager and senior staff of an electricity distributor are to be employed under contracts that are performance-based.

(2) The term of a contract must not be less than 12 months or more than 5 years (including any option for renewal). A term that is less than 12 months is taken to be for 12 months and a term for more than 5 years is taken to be limited to 5 years.

(3) Contracts may be renewed from time to time.

**Annual reporting of contracts for senior staff**

11. The general manager of an electricity distributor must, at least once annually, report to the board of directors of the distributor on the contractual conditions of senior staff.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Industrial arbitration excluded**

12. (1) In this clause, a reference to the employment of the general manager or a senior staff member is a reference to:

- (a) the appointment of, or failure to appoint, a person to the vacant position of general manager or to a vacant senior staff position; or
- (b) the removal, retirement, termination of employment or other cessation of office of the general manager or a senior staff member; or
- (c) the remuneration or conditions of employment of the general manager or a senior staff member.

(2) The employment of the general manager or a senior staff member, or any matter, question or dispute relating to any such employment, is not an industrial matter for the purposes of the Industrial Relations Act 1991.

(3) Subclause (2) applies whether or not any person has been appointed to the vacant position of general manager or a vacant senior staff position.

(4) No award, agreement, contract determination or order made or taken to have been made or continued in force under the Industrial Relations Act 1991, whether made before or after the commencement of this clause, has effect in relation to the employment of the general manager or senior staff members.

(5) No proceedings for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction, or for any other relief, lie in respect of the appointment of or failure to appoint a person to the position of general manager or to a senior staff position, the entitlement or non-entitlement of a person to be so appointed or the validity or invalidity of any such appointment.

**Duty to report bankruptcy**

13. (1) If a person who is a senior staff member becomes bankrupt or makes a composition, arrangement or assignment for the benefit of the person's creditors, the person must:

- (a) immediately give notice of the bankruptcy, composition, arrangement or assignment to the general manager; and

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(b) provide the general manager with any further information concerning the cause of the bankruptcy or of the making of the composition, arrangement or assignment required by the general manager within a time specified by the general manager.

(2) This clause applies to the general manager in the same way as it applies to a senior staff member and so applies as if references to the general manager were references to the board of directors of the electricity distributor.

**PART 4—EQUAL EMPLOYMENT OPPORTUNITY**

**Objects of Part**

14. The objects of this Part are:

- (a) to eliminate and ensure the absence of discrimination in employment in electricity distributors on the grounds of race, sex, marital status and physical impairment; and
- (b) to promote equal employment opportunity for women, members of racial minorities and physically handicapped persons in electricity distributors.

**Preparation and implementation of management plans**

15. (1) An electricity distributor must prepare and implement an equal employment opportunity management plan in order to achieve the objects of this Part.

(2) The plan is to include provisions relating to:

- (a) the devising of policies and programs by which the objects of this Part are to be achieved; and
- (b) the communication of those policies and programs to persons within the staff of the electricity distributor; and
- (c) the collection and recording of appropriate information; and
- (d) the review of personnel practices within the distributor (including recruitment techniques, selection criteria, training and staff development programs, promotion and transfer policies and patterns, and conditions of service) with a view to the identification of any discriminatory practices; and

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (e) the setting of goals or targets, where these may reasonably be determined, against which the success of the plan in achieving the objects of this Part may be assessed; and
- (f) the means, other than those referred to in paragraph (e), of evaluating the policies and programs referred to in paragraph (a); and
- (g) the revision and amendment of the plan; and
- (h) the appointment of persons within the distributor to implement the provisions referred to in paragraphs (a)–(g).

(3) An equal employment opportunity management plan may include provisions, other than those referred to in subclause (2), that are not inconsistent with the objects of this Part.

(4) An electricity distributor may, from time to time, amend its equal employment opportunity management plan.

**Inconsistencies with the Anti-Discrimination Act 1977**

16. (1) The provisions of an equal employment opportunity management plan, to the extent of any inconsistency between those provisions and the provisions of the Anti-Discrimination Act 1977, prevail.

(2) This clause does not apply to or in respect of the provisions of a plan which are the subject of a reference under this Part to the Anti-Discrimination Board or the Director of Equal Opportunity in Public Employment.

**References**

17. (1) Where the Minister is dissatisfied with any matter relating to the preparation, amendment or implementation of an equal employment opportunity management plan by an electricity distributor or any failure or omission of an electricity distributor with respect to the preparation, amendment or implementation of any such plan, the Minister may refer the matter to the Anti-Discrimination Board or the Director of Equal Opportunity in Public Employment.

**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) The provisions of section 122N of the Anti-Discrimination Act 1977, and the succeeding provisions of Part 9A of that Act, apply to and in respect of a reference under this clause to the Anti-Discrimination Board as if it were a reference under section 122M of that Act and as if the electricity distributor were an authority within the meaning of that Part.

**PART 5—OTHER PROVISIONS CONCERNING  
STAFF**

**Advertising of staff positions**

18. (1) When it is proposed to make an appointment to a position within the organisation structure of an electricity distributor, the position must be advertised in a manner sufficient to enable suitably qualified persons to apply for the position.

(2) If the position is a senior staff position, the requirement of this clause is satisfied if the position is advertised at least twice in a daily newspaper circulating throughout the State.

(3) This clause does not apply to:

- (a) the re-appointment, under a new contract, of a senior staff member whose contract has expired; or
- (b) the appointment of an employee if the term of employment is for:
  - (i) not more than 12 months; or
  - (ii) two or more periods that together are not more than 12 months in any period of 2 years.

**Appointments to be on merit**

19. (1) When the decision is being made to appoint a person to a position:

- (a) only a person who has applied for appointment to the position may be selected; and
- (b) from among the applicants eligible for appointment, the applicant who has, in the opinion of the general manager (in consultation with the board of directors, if the position is a senior management staff position), the greatest merit is to be selected.

*Electricity (Amendment) Act 1993 No. 24*

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) The merit of the persons eligible for appointment to a position is to be determined according to:

- (a) the nature of the duties of the position; and
- (b) the abilities, qualifications, experience and standard of work performance of those persons relevant to those duties.

**Appointments to which clauses 18 and 19 do not apply**

20. Clauses 18 and 19 do not apply to:

- (a) an appointment by way of demotion; or
- (b) an appointment by way of a lateral transfer, unless the electricity distributor decides that those clauses are to apply to the appointment.

**Temporary appointments**

21. (1) If a position other than the general manager (but including a senior staff position) within the organisation structure of an electricity distributor is vacant or the holder of such a position is suspended from duty, sick or absent, the general manager may appoint a person to the position temporarily.

(2) A person who is appointed to a position temporarily may not continue in that position for a period of more than 12 months.

**Independence of staff for certain purposes**

22. (1) The general manager or a member of staff of an electricity distributor is not subject to a direction by the board of directors of the distributor as to the content of any advice or recommendation made by the member.

(2) This clause does not prevent the board of directors of an electricity distributor from directing the general manager or a member of staff to provide advice or a recommendation.

**Other work**

23. (1) The general manager must not engage, for remuneration, in private employment or contract work outside the service of the electricity distributor without the written approval of the board of directors of the distributor.



*Electricity (Amendment) Act 1993 No. 24*

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the electricity distributor that relates to the business of the distributor or that might conflict with the member's duties as a member of staff of the distributor unless he or she has notified the general manager in writing of the employment or work.

(3) The general manager may prohibit a member of staff from engaging, for remuneration, in private employment or contract work outside the service of the electricity distributor that relates to the business of the distributor or that might conflict with the member's duties as a member of staff of the distributor.

(4) A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the electricity distributor if prohibited from doing so under subclause (3).

**SCHEDULE 11—SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS**

(Sec. 39)

**PART 1—GENERAL**

**Savings and transitional regulations**

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Electricity (Amendment) Act 1993.

(2) In particular, the regulations may, in the case of the enactment of the Electricity (Amendment) Act 1993, provide for the resolution of disputes, or to avoid doubt, may be made with respect to whether any person employed or thing done or used by a former electricity council was employed or done or used in connection with its electricity functions.

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

*Electricity (Amendment) Act 1993 No. 24*

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(4) 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.

**PART 2—PROVISIONS CONSEQUENT ON THE  
ENACTMENT OF THE ELECTRICITY  
(AMENDMENT) ACT 1993**

**Definitions**

2. (1) In this Schedule:

“**corresponding electricity distributor**”, in relation to a former electricity council, means the electricity distributor specified by the proclamation that dissolves the council or declares that the council has no authority to exercise electricity functions;

“**defunct county council**” means a county council dissolved by proclamation under this Act;

“**electricity function**” means the generation, distribution, transmission, reticulation or supply of electricity;

“**former electricity council**” means a local government council or a county council that, immediately before the appointed day, was authorised under an Act to supply electricity to the public.

(2) In any provision of this Schedule, “**appointed day**”, in relation to a defunct county council or a former electricity council, means the day on which the council is dissolved or ceases to have authority to exercise electricity functions.

*Electricity (Amendment) Act 1993 No. 24*

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Transfer of assets, rights and liabilities**

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

- (a) any assets of a former electricity council that were used for or in connection with its electricity functions vest in the corresponding electricity distributor without the need of any conveyance, transfer, assignment or assurance;
  - (b) the rights and liabilities of each former electricity council in connection with its electricity functions become by virtue of this clause the rights and liabilities of the corresponding electricity distributor;
  - (c) all proceedings commenced before the appointed day by or against a former electricity council in connection with its electricity functions and pending immediately before the appointed day are taken to be proceedings pending by or against the corresponding electricity distributor;
  - (d) any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of a former electricity council in connection with its electricity functions 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 the corresponding electricity distributor.
- (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.

*Electricity (Amendment) Act 1993 No. 24*

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(3) The operation of this clause is not to be regarded as an event of default under any contract or other instrument.

(4) No attornment to an electricity distributor by a lessee from a former electricity council is required.

**Existing councillors of defunct county councils**

4. (1) A person who, immediately before the appointed day, held office as Chairman or a member of a defunct county council:

- (a) ceases to hold that office; and
- (b) holds office, subject to this Act, as Chairperson or a director, respectively, of the corresponding electricity distributor.

(2) A person who so ceases to hold office as a member of a defunct county council is not entitled to any remuneration or compensation because of the loss of that office.

**Existing general manager of defunct county council**

5. (1) A person who, immediately before the appointed day, held office as general manager of a defunct 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 a defunct county council is taken to have been appointed under this Act as the general manager of the corresponding electricity distributor under the terms and for the remaining duration of the general manager's existing employment contract with the defunct county council.

**Continuity of staff of former electricity council**

6. (1) The persons who were, immediately before the appointed day, members of staff of a former electricity council employed in connection with its electricity functions are taken to be members of staff of the corresponding electricity distributor employed under this Act.

*Electricity (Amendment) Act 1993 No. 24*

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*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 employment contracts, 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 former electricity 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.

**Saving of water supply functions of certain defunct county councils**

7. (1) Subject to the regulations, any functions of a water supply authority that, immediately before the appointed day, were exercisable by a former electricity council are to be exercised by the corresponding electricity distributor.

(2) The regulations may make provision for or with respect to the transfer of any such water supply functions from the electricity distributor to any other body with the consent of the Minister administering the Water Supply Authorities Act 1987. In particular, the regulations may provide that references in any other Act or instrument to an authority involved in the supply of water are to be construed as or as including references to a body to which such functions are transferred.

**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) defunct county councils; and
- (b) the production and supply of electricity,

do not apply to or in respect of an electricity distributor.

*Electricity (Amendment) Act 1993 No. 24*

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(2) The provisions of the Local Government Act 1919 and the ordinances made under that Act relating to the employment of persons by a former electricity council in connection with its electricity functions do not apply to a person employed under this Act, except as provided by this clause.

(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 a former electricity council in connection with its electricity functions 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 a former electricity council in connection with its electricity functions is taken to be a reference to the corresponding electricity distributor; or
- (b) the chairman of a defunct county council is taken to be a reference to the Chairperson of the corresponding electricity distributor; or
- (c) to a delegate to a defunct county council is taken to be a reference to a director of the corresponding electricity distributor; or
- (d) to the general manager of a defunct county council is taken to be a reference to the general manager of the corresponding electricity distributor.

**Existing resumptions and appropriations**

10. An acquisition of land by compulsory process, and the assessment and payment of compensation relating to the acquisition that was commenced before the appointed day by or on behalf of a former electricity council in connection with its electricity functions is to be completed or otherwise dealt with by or on behalf of the corresponding electricity distributor in accordance with the provisions of clause 3.

*Electricity (Amendment) Act 1993 No. 24*

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

**Saving of operation of County Districts Reconstitution Act 1979, s. 8**

11. Section 8 of the County Districts Reconstitution Act 1979 continues to apply for the good of any person to whom it applied immediately before its repeal by this Act.

**SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO  
ELECTRICITY ACT 1945**

(Sec. 3)

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

(a) From the definition of “Cathodic protection system” in section 4 (1), omit “, but does not include any such appliances, wires, fittings or other apparatus installed on a floating mobile structure or on any equipment used for the taking of fish”.

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

**“Stray current source”** means any appliance, equipment, fitting or other apparatus:

(a) that operates on direct electrical current or is designed or used to generate or transmit direct electrical current; and

(b) that is attached, whether directly or indirectly, to a metallic structure in contact with land, including water.

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

(a) From section 5 (3), omit “17”, insert instead “16”.

(b) From section 5 (3), omit “15”, insert instead “14”.

(c) Omit section 5 (4) (e).

(3) Section 9 (**Powers of Corporation relating to the generation and supply of electricity**):

Omit section 9 (1) (f).

*Electricity (Amendment) Act 1993 No. 24*

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SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO  
ELECTRICITY ACT 1945—*continued*

- (4) Section 14AAA (**Corporation empowered to effect or arrange insurance policies etc.**):
- (a) In section 14AAA (1), after “applies.”, insert “The Corporation may also enter into, or arrange for the authorities to enter into, a self-insurance scheme of the kind to which subsection (2A) applies.”.
  - (b) After section 14AAA (2), insert:
 

(2A) For the purposes of subsection (1), a self-insurance scheme is of a kind to which this subsection applies if it is a scheme under which money is set aside to indemnify an electricity supply authority covered by the scheme in respect of any prescribed liability, loss or damage incurred or sustained during the currency of the scheme by that authority (being a prescribed liability, loss or damage that is specified in the scheme).
  - (c) In section 14AAA (3), after “policy”, insert “or scheme”.
  - (d) In section 14AAA (4), after “policy”, insert “or self-insurance scheme”.
  - (e) From section 14AAA (5), omit “subsection (2)”, insert instead “this section”.
  - (f) In section 14AAA (6), after “policy”, insert “or self-insurance scheme”.
- (5) Section 14AAF:
- After section 14AAE, insert:
- Investment of surplus from premium**
- 14AAF. Money in the Electricity Development Fund that was paid to the Fund for the purpose of effecting insurance, or for management for self-insurance purposes, in accordance with this Part but which is not required for the payment of premiums may be invested by the Corporation:
- (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 on the Corporation to invest money—in securities in which trustees are by law authorised to invest.



*Electricity (Amendment) Act 1993 No. 24*

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SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO  
ELECTRICITY ACT 1945—*continued*

(6) Sections 19B–19E:

Omit the sections, insert instead:

**Contribution by distributors**

19B. An electricity distributor and Sydney Electricity must contribute annually towards the annual charges for the lighting of traffic routes an amount determined by the Minister in consultation with the Minister administering the Traffic Act 1909.

(7) Section 19H (**Payments of subsidies for removal etc. of electricity structures out of Traffic Route Lighting Subsidy Account**):

Omit the section.

(8) Section 25 (**Power of entry**):

From section 25 (1), omit “or cathodic protection system”, insert instead “, cathodic protection system or stray current source”.

(9) Section 28:

Before section 28A, insert:

**Delegation of functions**

28. (1) The Minister may delegate to an authorised person any of the functions of the Minister under this Act, other than this power of delegation.

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

(3) In this section “**authorised person**” means:

- (a) a public authority or local authority or an officer of a public authority or local authority; or
- (b) a public servant; or
- (c) a person of a class prescribed by the regulations.

*Electricity (Amendment) Act 1993 No. 24*

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SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

(10) Section 37 (**Regulations**):

In section 37 (2) (a3), (b) and (d), after “cathodic protection systems” wherever occurring, insert “and stray current sources”.

SCHEDULE 3—AMENDMENT OF OTHER ACTS

(Sec. 4)

**Electricity Commission Act 1950 No. 22**

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

- (a) From section 3 (1), omit the definition of “Council”.
- (b) From section 3 (1), omit the definition of “Electricity supply authority”, insert instead:

“**Electricity supply authority**” means a person or body engaged in the supply of electricity to the public or in the generation of electricity for supply, directly or indirectly, to the public whether by statute, franchise agreement or otherwise and includes:

- (a) the Commission; or
- (b) an electricity distributor within the meaning of the Electricity Act 1945; or
- (c) Sydney Electricity; or
- (d) the State Rail Authority; or
- (e) the Water Administration Ministerial Corporation.

(2) Section 9 (**Powers of Commission**):

Omit section 9 (2), insert instead:

(2) The Commission must not supply electricity to any person for use within the distribution district of an electricity distributor constituted under the Electricity Act 1945, or within the Sydney Electricity District as defined in the Sydney Electricity Act 1990, except:

- (a) with the approval of the Minister, on the recommendation of the Corporation; and
- (b) on such terms and conditions as may be approved by the Minister, on the recommendation of the Corporation and after consultation with the electricity distributor concerned.

*Electricity (Amendment) Act 1993 No. 24*

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SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

(3) Section 78:

After section 77, insert:

**Assignment of certain easements**

78. (1) The Commission may, by notification published in the Gazette, assign to an electricity distributor constituted under the Electricity Act 1945 or Sydney Electricity any easement vested in the Commission.

(2) The assignment takes effect on publication of the notification in the Gazette or on a later date specified in the notification, and takes effect without the need of execution or registration of any other instrument.

(3) The Registrar-General may make such recordings in a folio of the Register kept under the Real Property Act 1900 or other records kept or maintained by the Registrar-General as appear to the Registrar-General to be proper to be made in order to record the assignment of an easement under this section and, if need be, may for that purpose require any further particulars of the easement to be furnished by the Commission, the electricity distributor or Sydney Electricity.

**Government Pricing Tribunal Act 1992 No. 39**

Schedule 1 (**Government Agencies for which Tribunal has Standing Reference**):

(a) After "Sydney Electricity", insert:

An electricity distributor within the meaning of the Electricity Act 1945, and Broken Hill City Council and Tenterfield Shire Council in relation to their exercise of the functions of an electricity distributor under that Act

(b) From the matter relating to county councils, omit "or electricity".

*Electricity (Amendment) Act 1993 No. 24*

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SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

**Land Development Contribution Management Act 1970 No. 22**

**Section 7 (Time when declared land becomes liable for contribution):**

From section 7 (6), omit “a county council or a council”, insert instead “an electricity distributor within the meaning of the Electricity Act 1945 or Broken Hill City Council or Tenterfield Shire Council (in the exercise of the functions of an electricity distributor within the meaning of that Act)”.

**Public Authorities (Financial Arrangements) Act 1987 No. 33**

**Schedule 1 (Authorities):**

(a) Insert in alphabetical order:

An electricity distributor constituted under the Electricity Act 1945.

(b) Omit:

Central West County Council.  
Illawarra County Council.  
Macquarie County Council.  
Monaro County Council.  
Murray River County Council.  
Murrumbidgee County Council.  
Namoi Valley County Council.  
New England County Council.  
North West County Council.  
Northern Riverina County Council.  
Northern Rivers County Council.  
Ophir County Council.  
Oxley County Council.  
Peel-Cunningham County Council.  
Prospect County Council.  
Shortland County Council.  
South West Slopes County Council.  
Southern Mitchell County Council.

*Electricity (Amendment) Act 1993 No. 24*

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SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

Southern Riverina County Council.  
 Southern Tablelands County Council.  
 Tumut River County Council.  
 Ulan County Council.

**Public Finance and Audit Act 1983 No. 152****Schedule 2 (Statutory Bodies):**

(a) Insert in appropriate alphabetical order of body:

An electricity distributor constituted under the Electricity Act 1945.

(b) Omit:

Central West County Council.  
 Illawarra County Council.  
 Macquarie County Council.  
 Monaro County Council.  
 Murray River County Council.  
 Murrumbidgee County Council.  
 Namoi Valley County Council.  
 New England County Council.  
 Northern Rivers County Council.  
 North-West County Council.  
 Ophir County Council.  
 Peel-Cunningham County Council.  
 Prospect County Council.  
 Shortland County Council.  
 Southern Mitchell County Council.  
 Southern Tablelands County Council.  
 South-west Slopes County Council.  
 Tumut River County Council.  
 Ulan County Council.

SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued***Traffic Act 1909 No. 5**

Parts 3C, 3D:

Before Part 4, insert:

**PART 3C—TRAFFIC ROUTE LIGHTING****Definitions**

10X. In this Part:

“**council**” means a local government council;“**traffic route**” means a public road within the meaning of the Local Government Act 1919:

- (a) which has been proclaimed or declared as a main or secondary road under the State Roads Act 1986; or
- (b) which, if not so proclaimed or declared, the Authority has, by reason of the volume of vehicular or pedestrian traffic carried on it, determined requires lighting to a standard approved by the Authority.

**Payments of subsidies**

10Y. (1) The Authority may with the approval of the Minister grant annual subsidies to councils for the lighting, to a standard approved by the Authority, of traffic routes.

(2) Before granting any such subsidy the Authority may require a council to enter into an agreement with the Authority to secure the carrying out of the purposes for which, and the terms and conditions on and subject to which, the subsidy is granted.

**Authority to make available money for subsidies**

10Z. (1) In the period of 12 months commencing on 1 July next succeeding the commencement of this Part and in each period of 12 months thereafter, the Authority must make available the amount of subsidies that the Minister with the concurrence of the Treasurer estimates will be granted to councils under this Part in that period of 12 months.

SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

(2) The Minister, before the commencement of each period of 12 months referred to in subsection (1), is to serve a notice on the Authority specifying the amount of the payment required.

(3) An amount payable under this section in any period of 12 months is to be paid in such sum or sums, at such time or times during that period and in such manner as the Minister may require in and by the notice referred to in subsection (2).

(4) The Authority may make the whole or any part of a payment required by this section out of the Roads and Traffic Authority Fund under the Transport Administration Act 1988.

**PART 3D—ELECTRICITY STRUCTURES****Definitions**

10ZA. In this Part:

“**electricity distributor**” means an electricity distributor within the meaning of the Electricity Act 1945 and includes Sydney Electricity or Broken Hill City Council or Tenterfield Shire Council in the exercise of the functions of an electricity distributor under that Act;

“**electricity structure**” means any structure erected or maintained by an electricity distributor within the meaning of the Electricity Act 1945 for the purpose of transmission or distribution of electricity or for the purpose of public lighting;

“**traffic route**” has the same meaning as in Part 3C.

**Payments of subsidies for removal etc. of electricity structures**

10ZB. (1) The Authority may, with the approval of the Minister grant subsidies to an electricity distributor for or towards the cost of removing or relocating electricity structures erected, within the distribution district of the distributor, on or adjacent to public roads, being electricity structures which the Authority has determined require removal or relocation for the purposes of traffic safety.

*Electricity (Amendment) Act 1993 No. 24*

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SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

(2) Before granting any such subsidy, the Authority may require an electricity distributor referred to in subsection (1) to enter into an agreement with the Authority to secure the carrying out of the purposes for which, and the terms and conditions upon and subject to which, the subsidy is granted.

**Unclaimed Money Act 1982 No. 174**

**Section 3 (Definitions):**

In paragraph (g) of the definition of “business” in section 3 (1), after “1919”, insert “or an electricity distributor within the meaning of the Electricity Act 1945”.

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[*Minister's second reading speech made in—  
Legislative Assembly on 12 May 1993  
Legislative Council on 21 May 1993*]



FIRST PRINT

## ELECTRICITY (AMENDMENT) BILL 1993

NEW SOUTH WALES



### EXPLANATORY NOTE

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

The object of this Bill is to amend the Electricity Act 1945 to constitute electricity distributors as bodies corporate.

Electricity distributors will perform essentially the same electricity supply functions as are now performed by the county councils that supply electricity, some of which the Bill proposes to abolish. The policies of an electricity distributor will be determined by a board of directors whose composition will vary depending on the distributor concerned. All the electricity distributors are to be governed by Ministerial directions and may enter into performance agreements with the Minister.

The proposed Act also:

- (a) amends the Traffic Act 1909 with respect to the funding and administration of the Traffic Route Lighting Subsidy Account and the Hazardous Poles Relocation Program; and
- (b) repeals the County Districts Reconstitution Act 1979; and
- (c) makes minor and consequential amendments to other Acts.

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Clause 1 states the short title of the proposed Act.

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

Clause 3 is a formal provision that gives effect to Schedules 1 and 2 containing amendments to the Electricity Act 1945.

Clause 4 is a formal provision that gives effect to Schedule 3 containing consequential amendments to other Acts.

Clause 5 repeals the County Districts Reconstitution Act 1979.

*Electricity (Amendment) 1993*

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**SCHEDULE 1—AMENDMENT OF THE ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS**

Schedule 1 (3) and (4) remove provisions relating to electricity councils and insert a new Part 2A which constitutes electricity distributors. The provisions of that Part are as follows:

**PART 2A—ELECTRICITY DISTRIBUTORS**

**Division 1—Constitution**

Proposed section 6 constitutes electricity distributors as bodies corporate. Proposed Schedule 7 also specifies the operating districts for the electricity distributors (called "distribution districts").

Proposed section 6A allows for amendment of Schedule 7 to the proposed Act by regulation.

Proposed section 6B allows Broken Hill City Council and Tenterfield Shire Council to exercise the functions of electricity distributors if the Minister approves. In the exercise of such functions, they are subject to the Act.

**Division 2—Functions of an electricity distributor**

Proposed section 6C sets out the principal functions of the electricity distributors. Their main business is to purchase electricity and to supply and distribute it within their respective districts. They have a duty to promote the safe and efficient use, and the conservation, of electricity.

Proposed section 6D gives the electricity distributors certain ancillary functions, for example, powers to acquire land, construct plant etc.

Proposed section 6E specifies certain duties of an electricity distributor, including carrying out its duties efficiently and economically, promoting standardisation of systems and equipment for the supply of electricity and supplying electricity on equitable terms and rates to customers.

Proposed section 6F provides that an electricity distributor may exercise its functions outside the distribution district on certain conditions.

Proposed section 6G allows an electricity distributor to delegate its functions to authorised persons and permits sub-delegation with the written consent of the distributor.

**Division 3—Electricity distributor policy and practice**

Proposed section 6H provides that the principal function of the board of directors of an electricity distributor is to determine the policies of the distributor. In discharging this function, the board has a duty to see that the electricity distributor functions properly and efficiently and in accordance with sound commercial practice.

*Electricity (Amendment) 1993*

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Proposed section 6I provides for Ministerial control and direction of electricity distributors. The Minister may give the board of a distributor written directions in relation to the exercise of the distributor's functions. The board may request the Minister to review the direction if it considers that the distributor would suffer a significant financial loss as a result of complying with the direction and if the direction is contrary to a performance agreement or is not in the distributor's commercial interests. After review, the Minister may confirm or revoke the direction.

Proposed section 6J requires an electricity distributor to supply the Minister from time to time with information concerning its activities.

Proposed section 6K requires an electricity distributor to invite tenders before entering into certain contracts.

Proposed section 6L requires an electricity distributor to invite tenders, and prepare a tender itself, for the provision of goods, materials, services, facilities or works costing \$250,000 or more or such greater amount as is prescribed by the regulations. The provision does not apply in the case of an emergency or to goods, materials, services, facilities or works exempted by the Minister by order published in the Gazette.

Proposed section 6M provides for performance agreements to be entered into between the Minister and an electricity distributor. These are agreements that set operational performance targets for the distributor. A performance agreement will require a distributor to prepare and submit to the Minister a corporate plan. The corporate plan is to guide the distributor in the conduct of its activities. It must specify the objectives of the distributor in relation to each aspect of its business affairs.

**Division 4—Constitution of boards**

Proposed section 6N provides for the constitution of a board of directors for each electricity distributor and gives effect to proposed Schedules 8 and 9, which relate to directors and meetings of the board.

Proposed section 6O describes the composition of a board of directors of an electricity distributor. It consists of persons elected or nominated, by the relevant local government councils, as prescribed by the regulations and persons appointed by the Minister.

**Division 5—General manager and staff**

Proposed section 6P provides that there is to be a general manager of each electricity distributor and specifies the functions of the general manager. The general manager is to be generally responsible for the efficient and effective operation of the distributor's organisation.

Proposed section 6Q enables an electricity distributor to employ staff and gives effect to proposed Schedule 10 which contains provisions relating to the employment of staff.

*Electricity (Amendment) 1993*

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**Division 6—Finance**

Proposed section 6R requires an electricity distributor to establish a General Fund and a Trust Fund.

Proposed section 6S provides for payment of non-trust money received by an electricity distributor into its General Fund and for payment out of that fund of the ordinary operating expenses (including salaries etc.) of the distributor.

Proposed section 6T provides for payment into an electricity distributor's Trust Fund of trust money received by the distributor.

Proposed section 6U provides for the investment by an electricity distributor of money held by it.

Proposed section 6V enables regulations to be made with respect to accounting methods to be employed by an electricity distributor.

Proposed section 6W requires the receipts of an electricity distributor to be banked in New South Wales.

Proposed section 6X prescribes the financial year of an electricity distributor as the year commencing on 1 July, unless the Treasurer determines another financial year under the Public Finance and Audit Act 1983.

**Division 7—Entry and inspection**

Proposed section 6Y defines "authorised person" for the purposes of the proposed Part.

Proposed section 6Z provides for the appointment by an electricity distributor of authorised persons and for the issue to them of a certificate of their authority, which they are obliged to produce to the occupiers of premises and other interested parties when exercising their functions under the proposed Act.

Proposed section 7 gives an authorised person a right to enter premises at reasonable hours to install or read a meter or do other things necessary to ascertain that an electricity distributor's tariff conditions etc. are being observed.

Proposed section 7A requires advance notice to be served on the occupier of premises when an authorised person enters land or a building in the exercise of his or her functions.

Proposed section 7B authorises the use of reasonable force by an authorised person to gain entry, if necessary, in accordance with the powers conferred on the person.

Proposed section 7C requires notification to be given to interested parties whenever force has been used to enter any premises and advance notice has not been given.

Proposed section 7D requires an authorised person to do as little damage as possible in the exercise of functions conferred on the person and to provide alternative means of access to premises where this is necessary.

*Electricity (Amendment) 1993*

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Proposed section 7E allows an electricity distributor in certain cases to recover the costs of entry from the owner or occupier of land that it has had to enter by force.

Proposed section 7F requires an electricity distributor to pay compensation for damage caused by it under the proposed Part, except damage from work done for the purposes of an inspection.

Proposed section 7G enables an electricity distributor to discontinue supply to any person who will not give the distributor access to his or her premises for checking the meter or installing any necessary equipment or for similar purposes.

**Division 8—Miscellaneous**

Proposed section 7H confers power on an electricity distributor to acquire land. The power is exercisable under the Land Acquisition (Just Terms Compensation) Act 1991.

Proposed section 7I provides for the formation by two or more electricity distributors of companies, known as special purpose companies, in order to carry out joint ventures in relation to any of their functions.

Proposed section 7J allows an electricity distributor to discontinue supply to a person who will not pay the charge for electricity supplied.

Proposed section 7K confers on an electricity distributor the power to dig up roads, put up structures and erect power lines.

Proposed section 7L provides that, for the purposes of any building approval required under the Local Government Act 1919 for the erection or placement of an electricity distributor's electrical wires, poles and other equipment, the distributor is to be the approving authority.

Proposed section 7M exonerates an electricity distributor from liability for any charge by a local government council in connection with its placement of wires, poles and other equipment within a local government area.

Proposed section 7N authorises an electricity distributor to require the owner of a conduit (for example, a pipe or cable) in or under a road or reserve to make an alteration to the conduit. Such alterations are to be made at the distributor's expense.

Proposed section 7O empowers an electricity distributor to abate any nuisance in the nature of an obstruction to any of its works, to repair damage caused by any such obstruction and to recover the cost of doing so from the person responsible for the obstruction.

Proposed section 7P prevents any structure or fitting of an electricity distributor that is erected or fixed on land from being taken in execution of a judgment against the owner of the land (unless it is the distributor itself).

Proposed section 7Q permits an electricity distributor to waive or refund the whole or part of any charge or other money due to it.

Proposed section 7R provides that a function exercised by an electricity distributor or a delegate of the distributor is not invalidated if it is exercised contrary to a direction of the Minister.

*Electricity (Amendment) 1993*

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Proposed section 7S exonerates from personal liability the directors of an electricity distributor and persons duly acting under direction for any matter or thing done in good faith in the execution of official duties.

Proposed section 7T permits an electricity distributor to join an industry association.

Proposed section 7U permits an electricity distributor, with the approval of the Minister, to adopt a trading name.

Proposed section 7V makes provision for the custody and use of the seal of an electricity distributor.

Proposed section 7W provides for the service of documents on an electricity distributor.

Proposed section 7X enables an electricity distributor to recover charges etc. as debts.

Proposed section 7Y enables the Minister to transfer any assets, rights and liabilities of an electricity distributor whose distribution district is changed by regulation under proposed section 6A to another electricity distributor.

Proposed section 7Z provides that the Governor-in-Council may by proclamation dissolve a county council established under the Local Government Act 1919 that has electricity supply functions or declare, in relation to other county councils and local government councils that at present have electricity supply and other functions, that they no longer have electricity supply functions.

Schedule 1 (18) inserts proposed Part 5A. The provisions of that Part are as follows:

**PART 5A—CONDITIONS OF ELECTRICITY SUPPLY**

Proposed section 26A defines certain terms for the purposes of the proposed Part.

Proposed section 26B gives a person a right to be provided with electricity supply or capacity increase from an electricity distributor if the person meets the cost of connection or makes a contribution to the cost in accordance with guidelines issued from time to time by the Energy Corporation in consultation with the Government Pricing Tribunal. A right of appeal is provided in accordance with the regulations.

Proposed section 26C requires an electricity distributor to formulate general conditions of supply that are not inconsistent with the Act. A copy of the conditions is to be made available for inspection free of charge.

Proposed section 26D treats a person who applies for or receives supply from an electricity distributor as having entered into an agreement containing the general conditions of supply. An electricity distributor may enter an alternative agreement with a person. An electricity distributor is entitled to refuse, suspend or discontinue supply if a person contravenes the conditions of an agreement.

Proposed section 26E allows an electricity distributor to require security from a customer.

*Electricity (Amendment) 1993*

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Proposed section 26F permits an electricity distributor to require the installation of metering equipment in connection with the supply of electricity.

Proposed section 26G permits an electricity distributor to require the installation of service equipment necessary or ancillary to the supply of electricity.

Proposed section 26H enables an electricity distributor to affix seals to a customer's installation.

Proposed section 26I provides for the estimation of the quantity of electricity used in cases where the metering equipment has not properly registered the quantity.

Proposed section 26J enables an electricity distributor to install service lines.

Proposed section 26K allows an electricity distributor to impose certain requirements on customers relating to the installation and use of electrical appliances and equipment, the location and accessibility of metering and service equipment and other matters in connection with the use and supply of electricity.

Proposed section 26L permits an electricity distributor to discontinue supply to a person who connects an installation to the electricity distributor's mains without permission or causes the person's supply of electricity to be incorrectly metered.

Proposed section 26M enables an electricity distributor to make certain requirements as to the installation of equipment in cases where the supply required is in excess of that which can be provided by service line from its street mains.

Proposed section 26N allows an electricity distributor to require a person to pay for the whole or a part of the costs incurred for supplying electricity or increasing the supply of electricity to the person.

Proposed section 26O entitles an electricity distributor to interrupt supply at reasonable times for the purpose of maintenance work, repairs or testing.

Proposed section 26P exonerates an electricity distributor from liability for loss suffered through a failure to supply or a defect in supply caused by a breakdown in machinery or by other causes not within the control of the distributor.

Proposed section 26Q requires a customer to give an electricity distributor 48 hours' notice that the supply be discontinued otherwise the customer remains liable for all charges for supply until 48 hours after the distributor is informed or until the supply can be discontinued or transferred, whichever happens first.

Proposed section 26R creates offences for damaging or tampering with equipment and installations of an electricity distributor.

Proposed section 26S enables an electricity distributor to refuse, suspend or discontinue supply to any person who contravenes the Part.

Proposed section 26T applies the Part to Sydney Electricity.

Schedule 1 (24) extends the regulation making power under the Act to certain matters, including matters relating to the transmission, distribution and use of electricity and the restriction or regulation of the removal or trimming of trees by electricity distributors or Sydney Electricity.

*Electricity (Amendment) 1993*

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Schedule 1 (26) inserts Schedules 7–11. Those Schedules contain the following provisions:

**SCHEDULE 7—ELECTRICITY DISTRIBUTORS**

Schedule 7 names the electricity distributors and specifies their distribution districts.

**SCHEDULE 8—BOARDS OF DIRECTORS**

Schedule 8 contains provisions relating to the directors of an electricity distributor, including the terms of office of directors and a requirement for a disclosure of pecuniary interests.

**SCHEDULE 9—BOARD MEETINGS**

Schedule 9 contains provisions relating to the procedure at meetings of a board of directors of an electricity distributor.

**SCHEDULE 10—STAFF OF ELECTRICITY DISTRIBUTORS**

**Part 1—Staff generally**

Clause 1 provides that an electricity distributor may employ staff and has power, subject to any industrial awards or agreements, to determine the wages and conditions of its staff.

Clause 2 provides for regulations to be made as to the conditions of employment and discipline of an electricity distributor's staff. The regulations are subject to awards and agreements.

Clause 3 allows an electricity distributor to obtain the services of other public sector employees by secondment or otherwise.

Clause 4 allows an electricity distributor to engage consultants.

**Part 2—Organisation structure**

Clause 5 requires an electricity distributor to determine an organisation structure.

Clause 6 allows an electricity distributor to re-determine its organisation structure from time to time.

**Part 3—The general manager and senior staff**

Clause 7 provides for the appointment of the general manager of an electricity distributor and of an acting general manager if the need should arise. The general manager is to be appointed by the Governor, on the recommendation of the Minister and the nomination of the distributor.



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Clause 8 requires consultation with the electricity distributor when the general manager of an electricity distributor is appointing or dismissing its senior management staff.

Clause 9 provides that the appointment and terms of employment of senior staff of an electricity distributor are, subject to the proposed Act, to be in accordance with any guidelines issued by the Minister.

Clause 10 requires senior staff of an electricity distributor to be appointed on performance-based contracts.

Clause 11 requires the general manager of an electricity distributor to report annually on the contractual conditions of the distributor's senior staff.

Clause 12 provides that the employment of the general manager and senior staff of an electricity distributor, since it is to be on a contract basis, is not subject to any industrial award or agreement.

Clause 13 imposes a duty on the general manager and senior staff members of an electricity distributor to report bankruptcy.

**Part 4—Equal employment opportunity**

Clause 14 states the objects of the proposed Division.

Clause 15 requires an electricity distributor to prepare and implement an equal employment opportunity management plan.

Clause 16 provides that the terms of an equal employment opportunity management plan prevail over the provisions of the Anti-Discrimination Act 1977 to the extent of any inconsistency.

Clause 17 allows the Minister to refer any aspect of an electricity distributor's equal employment opportunity management plan to the Anti-Discrimination Board if the Minister is not satisfied with it.

**Part 5—Other provisions concerning staff**

Clause 18 requires advertising of staff positions to be filled in an electricity distributor.

Clause 19 requires appointments of staff to be made on a merit basis.

Clause 20 states that clauses 18 and 19 do not apply to appointment by way of demotion or lateral transfer unless the electricity distributor otherwise decides.

Clause 21 provides that a member of staff of an electricity distributor is not subject to directions of the distributor in relation to the contents of any advice or recommendation made by the member.

Clause 22 prohibits employees of an electricity distributor from taking on outside employment except with the approval of the general manager of the distributor or, in the case of the general manager, except with the approval of the board of directors of the distributor.

*Electricity (Amendment) 1993*

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**SCHEDULE 11—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS**

Schedule 11 contains savings, transitional and other provisions.

Schedule 1 (1), (2), (5)–(17), (19)–(23) and (25) contain consequential amendments.

**SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO ELECTRICITY  
ACT 1945****Amendments relating to stray current sources**

The Act currently provides for the regulation of cathodic protection systems and confers certain rights of entry onto premises in which they are located. Cathodic protection systems are devices that inhibit the electrolytic corrosion of metallic structures that are attached to, or embedded in, the earth. The need to regulate those systems arises from their propensity to exacerbate the electrolytic corrosion of metallic structures in the vicinity of the structures they protect. Similar problems arise with other devices, commonly known as “stray current sources”.

Schedule 2 (1) defines the expression “stray current source”. Schedule 2 (10) provides for the regulation of stray current sources. Schedule 2 (8) confers certain rights of entry onto premises in which stray current sources are located. The effect of those amendments will be to put stray current sources on the same footing as cathodic protection systems.

**Constitution of the Electricity Council**

Schedule 2 (2) reduces the membership of the Electricity Council of New South Wales from 17 to 16 members by removing the Secretary of the Department of Local Government from the list of official members.

**Lighting of traffic routes etc.**

Schedule 2 (3) removes from the list of specified powers of the Energy Corporation of New South Wales the promotion of the installation, extension and improvement of the lighting of public roads.

Schedule 2 (6) removes provisions which establish a Traffic Route Lighting Subsidy Account funded by the Energy Corporation from the Electricity Development Fund and the Roads and Traffic Authority. The power of the Energy Corporation to grant subsidies to local government councils, county councils and Sydney Electricity for the lighting of traffic routes is also removed, as well as a similar power in relation to the granting of subsidies from the Subsidy Account towards the cost of removing or relocating electricity structures for the purposes of traffic safety (Schedule 2 (7)).

Schedule 2 (6) also omits a provision which links the annual contribution of electricity supply authorities in relation to the lighting of traffic routes in their area with the subsidies paid to the councils of those areas from the Traffic Route Lighting Subsidy Account. A new provision is included which enables the Minister in consultation with the Minister administering the Traffic Act 1909 to determine the annual contributions by electricity distributors and Sydney Electricity for the lighting of traffic routes.

Amendments made to the Traffic Act 1909 by Schedule 3 provide for the Roads and Traffic Authority to make available money for annual subsidies to councils for traffic route lighting and removal or relocation of electricity structures for traffic purposes.

*Electricity (Amendment) 1993*

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**Insurance**

Schedule 2 (4) enables the Energy Corporation to enter into, or arrange for an electricity supply authority to enter into, a self-insurance scheme in which money is set aside to indemnify the authority against any prescribed liability, loss or damage (specified in the scheme) that is incurred or sustained by the authority.

Schedule 2 (5) gives the Corporation power to invest, in certain authorised securities, money in the Electricity Development Fund which was paid for insurance or self-insurance purposes and is not required for the payment of premiums.

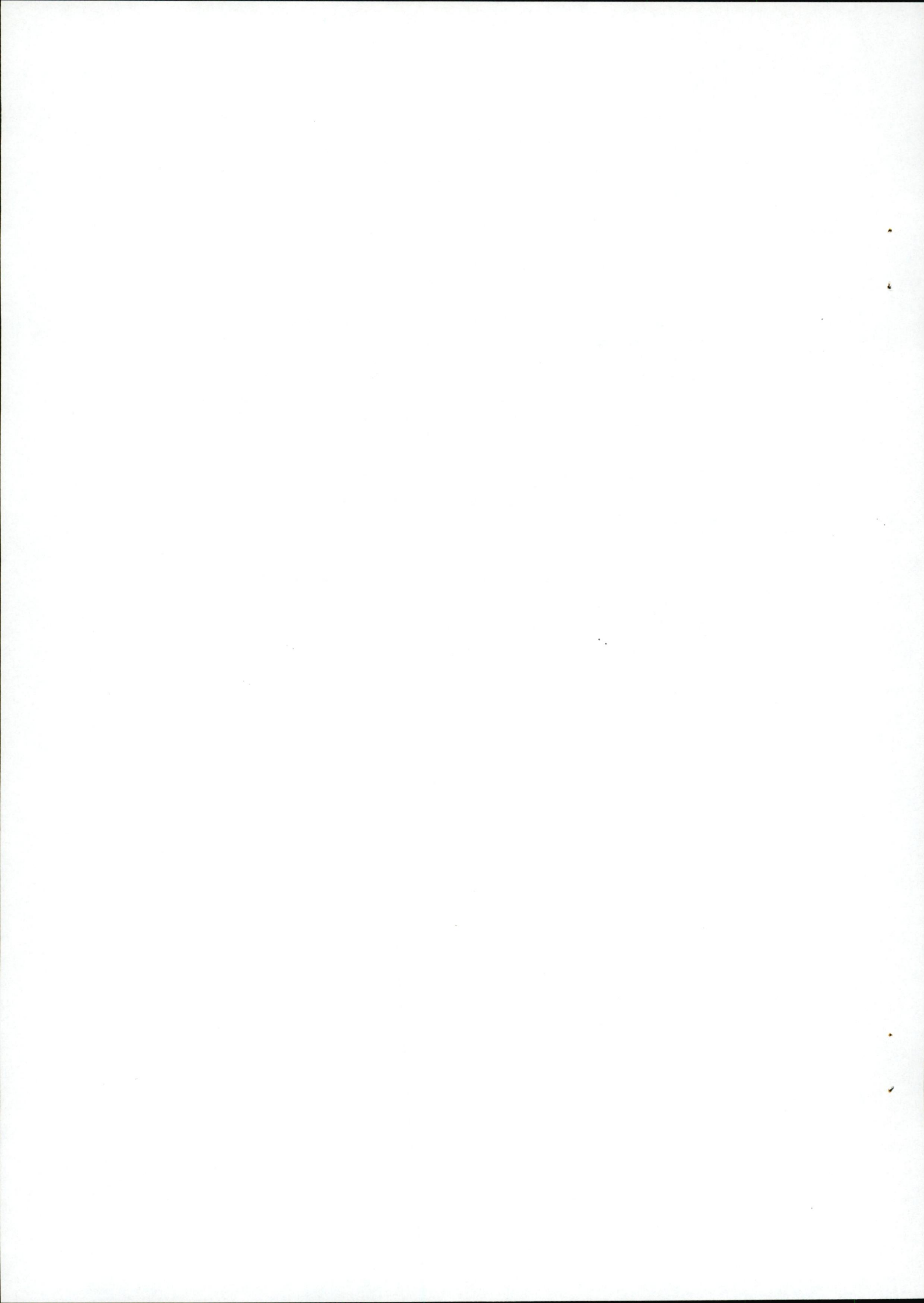
**Delegation of functions**

Schedule 2 (9) enables the Minister to delegate the functions of the Minister under the Act.

**SCHEDULE 3—AMENDMENT OF OTHER ACTS**

Schedule 3 contains amendments to other Acts consequent on the enactment of the proposed amendments to the Electricity Act 1945.

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FIRST PRINT

**ELECTRICITY (AMENDMENT) BILL 1993**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

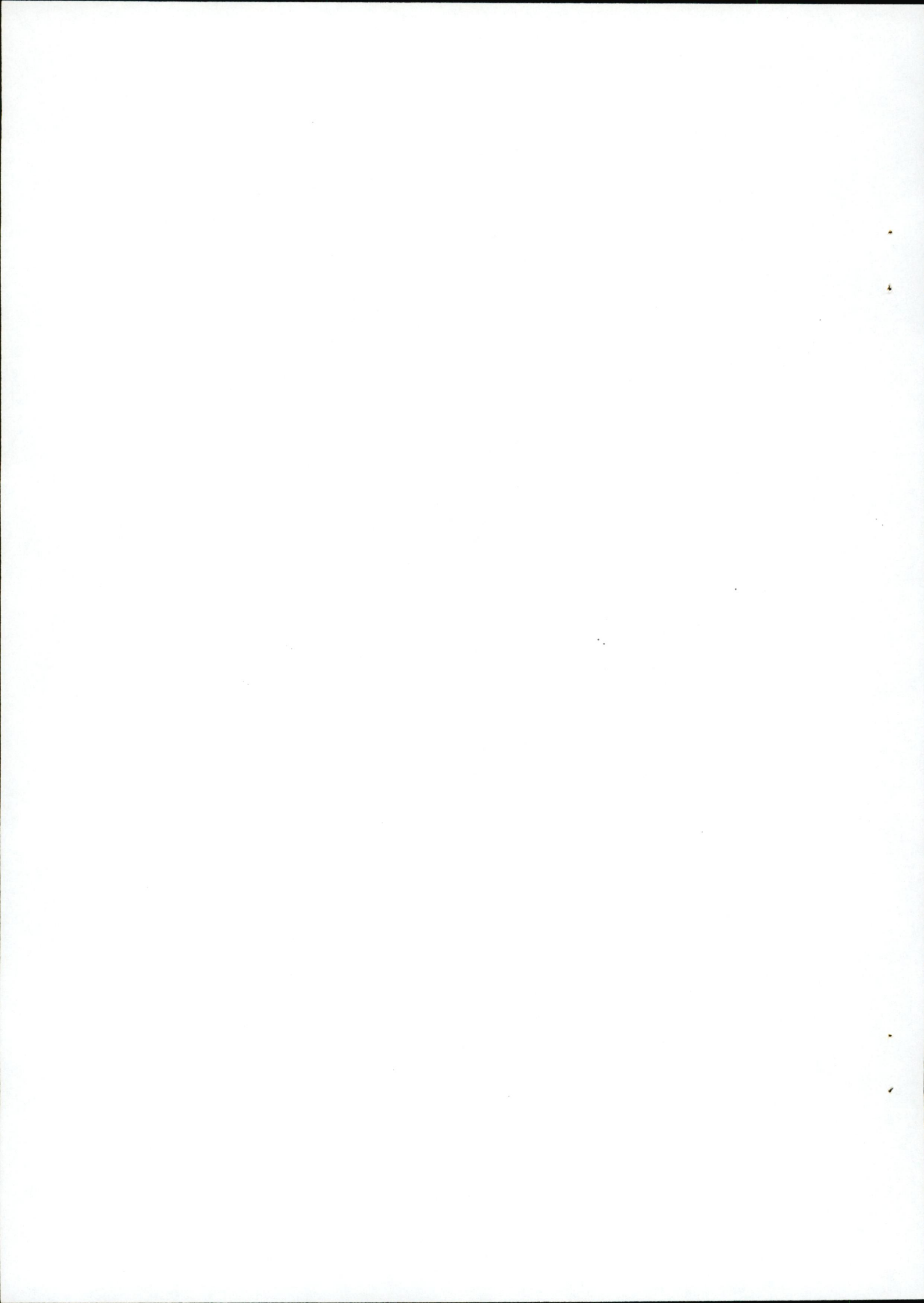
1. Short title
2. Commencement
3. Amendment of Electricity Act 1945 (1946 No. 13)
4. Amendment of other Acts
5. Repeal of County Districts Reconstitution Act 1979 No. 185

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945 RELATING TO  
ELECTRICITY DISTRIBUTORS

SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO ELECTRICITY ACT  
1945

SCHEDULE 3—AMENDMENT OF OTHER ACTS

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**ELECTRICITY (AMENDMENT) BILL 1993**

NEW SOUTH WALES



No.           , 1993

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**A BILL FOR**

An Act to amend the Electricity Act 1945 to constitute electricity distributors as bodies corporate, and to specify their functions; to provide for the dissolution of certain county councils constituted under the Local Government Act 1919 that are suppliers of electricity; to repeal the County Districts Reconstitution Act 1979; to make consequential amendments to certain Acts; and for other purposes.

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*Electricity (Amendment) 1993***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Electricity (Amendment) Act 1993.

**Commencement**

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

**Amendment of Electricity Act 1945 (1946 No. 13)**

3. The Electricity Act 1945 is amended as set out in Schedules 1 and 2.

**Amendment of other Acts**

- 10 4. The Acts specified in Schedule 3 are amended as set out in that Schedule.

**Repeal of County Districts Reconstitution Act 1979 No. 185**

5. The County Districts Reconstitution Act 1979 is repealed.

15 **SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS**

(Sec. 3)

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

- 20 (a) From section 4 (1), omit the definitions of "Council", "County district", "Electricity council" and "Electricity supply authority".

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

"**Distribution**" of electricity includes supply and reticulation of electricity.

25 "**Distribution district**" of an electricity distributor means its distribution district determined under this Act.

"**Electricity distributor**" means an electricity distributor constituted as a body corporate by this Act.



*Electricity (Amendment) 1993*

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

“**Electricity supply authority**” means a person or body engaged in the distribution of electricity to the public or in the generation of electricity for supply, directly or indirectly, to the public whether by statute, franchise agreement or otherwise and includes: 5

- (a) the Electricity Commission; or
- (b) an electricity distributor; or
- (c) Sydney Electricity; or 10
- (d) the State Rail Authority; or
- (e) the Water Administration Ministerial Corporation.

“**Reticulation**” of electricity means the provision of all conductors and other infrastructure and metering equipment necessary to allow the delivery of electricity from the point of connection of an electricity distributor’s assets to sources of electricity supply, to the point of connection of the distributor’s assets to the assets of an electricity consumer or of an electricity supply authority. 15 20

“**Supply**” of electricity means the delivery and sale to the supplier’s customers of electricity generated or purchased by the supplier.

“**Unincorporated Area**” means the aggregate of those parts of New South Wales that are not within a local government area. 25

(c) After section 4 (1), insert:

(2) A reference (however made or expressed) in this Act to any works or property of an electricity distributor includes a reference to any works or property of the Crown of which the distributor has the care, control or management. 30

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

Omit section 5 (4) (a) (ii)–(iv), insert instead:

- (i) Illawarra Electricity;
- (ii) Prospect Electricity; 35
- (iii) Shortland Electricity;

*Electricity (Amendment) 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*****(3) Part 2A:**

After Part 2, insert:

5

**PART 2A—ELECTRICITY DISTRIBUTORS****Division 1—Constitution****Constitution of electricity distributors and their districts**

10

6. (1) Each body named in Schedule 7 is an electricity distributor constituted as a body corporate under that name.

15

(2) Each electricity distributor has the distribution district consisting of the local government areas or parts of local government areas, or the unincorporated area or parts of the unincorporated area, indicated beneath its name in Schedule 7. The word “(part)” appearing beside the name of an area specified in Schedule 7 indicates that, of that area, only the part prescribed by the regulations is included in the distribution district.

**Amendment of Schedule 7**

20

6A. (1) The regulations may do any one or more of the following:

25

- (a) create a new electricity distributor by inserting its name and distribution district in Schedule 7;
- (b) dissolve an electricity distributor by removing its name and distribution district from Schedule 7;
- (c) change the name or distribution district of any electricity distributor named in Schedule 7.

30

(2) The Minister is not to recommend the making of a regulation with respect to a matter specified in subsection (1) (b) or (c) except with the consent of the electricity distributor concerned or, if that consent is not forthcoming, after an inquiry under Part 5 of the Energy Administration Act 1987 has been held into the objectives of the proposed regulation.

35

(3) A regulation with respect to a matter specified in subsection (1) may contain savings and transitional provisions.

*Electricity (Amendment) 1993*

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Application of this Act to Broken Hill and Tenterfield Councils**

6B. (1) The Broken Hill City Council or the Tenterfield Shire Council may, if the Minister so approves, exercise the functions of an electricity distributor. 5

(2) The Broken Hill City Council and the Tenterfield Shire Council are, in the exercise of any such functions, subject to this Act (except Division 4) as if they were electricity distributors. 10

(3) In applying this Act to the Broken Hill City Council or the Tenterfield Shire Council:

(a) a reference in this Act to the distribution district of an electricity distributor is taken to be a reference to the area of the Council; and 15

(b) a reference to the board of directors of an electricity distributor is taken to be a reference to the Council.

(4) Such other adaptations as are necessary may be prescribed by the regulations and the regulations may also provide for specified provisions of the Act not to apply to Broken Hill City Council or Tenterfield Shire Council. 20

**Division 2—Functions of an electricity distributor**

**Principal functions of electricity distributor**

6C. (1) An electricity distributor has the following principal functions: 25

(a) the purchase, transmission and distribution of electricity;

(b) the provision and maintenance of works for the distribution of electricity; 30

(c) the protection of the public from dangers arising from the transmission, distribution and use of electricity;

(d) the promotion of the safe and efficient use of electricity and electrical fittings and appliances;

(e) the promotion of energy conservation and of measures to increase the efficiency of energy transmission and use; 35

*Electricity (Amendment) 1993*


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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(f) such other functions as are approved by the Minister on the recommendation of the Corporation.

5 (2) An electricity distributor has such other functions as are conferred or imposed on it by or under this or any other Act.

**Ancillary functions of electricity distributor**

10 6D. (1) In the exercise of its functions, an electricity distributor may:

(a) conduct any business and, for that purpose, use any property or the services of any staff of the distributor; and

(b) generate electricity; and

15 (c) acquire and develop land as necessary for the exercise of its functions, and dispose of land; and

(d) acquire or build, and maintain and dispose of, any buildings, plant, machinery, equipment or vehicles; and

20 (e) 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

(f) make charges and impose fees for services performed and goods and materials supplied by it; and

(g) appoint agents, and act as agents for other persons.

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

**Operations of electricity distributors**

30 6E. It is the duty of an electricity distributor, in the exercise of its functions related to the supply of electricity:

(a) to carry out those functions efficiently and economically and to ensure that it has adequate internal audit procedures; and

35 (b) to promote standardisation of systems and equipment for the supply of electricity and electrical installations and other electrical equipment; and

*Electricity (Amendment) 1993*

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (c) except as permitted by or under this Act or by the Corporation, not to supply electricity to any person on terms or at rates different from those on which it supplies other persons having similar technical and quantity requirements and similar patterns of use of electricity. 5

**Exercise of functions outside district**

6F. An electricity distributor may not exercise its functions outside its distribution district except: 10

- (a) with the approval of the Minister, on the recommendation of the Corporation; and  
 (b) on such terms and conditions as may be approved by the Minister, on the recommendation of the Corporation and after consultation with the electricity distributors whose distribution districts are affected. 15

**Delegation of functions**

6G. (1) An electricity distributor may delegate to an authorised person any of its functions, other than this power of delegation. 20

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

- (3) In this section, “authorised person” means: 25  
 (a) a member of staff of the electricity distributor or any other person of whose services the distributor makes use; or  
 (b) a person of a class prescribed by the regulations or of a class approved by the board of directors of the distributor. 30

**Division 3—Electricity distributor policy and practice****Board to determine policies of electricity distributor etc.**

6H. (1) The board of directors of an electricity distributor has the function of determining the policies of the distributor. 35

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

*Electricity (Amendment) 1993*SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***Ministerial control of distributors**

5 6I. (1) The Minister may give the board of directors of an electricity distributor written directions in relation to the exercise of the distributor's functions.

(2) The board and the general manager of the electricity distributor must ensure that the distributor complies with any such direction, except as provided by this section.

10 (3) If the board considers that:

(a) the electricity distributor would suffer a significant financial loss as a result of complying with the direction; and

15 (b) the direction is contrary to the provisions of a performance agreement or is not in the commercial interests of the distributor,

the board may request the Minister to review the direction.

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

25 (5) If the board requests a review, the electricity distributor 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.

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

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

(a) a direction under section 15 (2) (a);

40 (b) a direction given in relation to a requirement of the Treasurer under section 59B of the Public Finance and Audit Act 1983.

*Electricity (Amendment) 1993*


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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*
**Distributor to provide information to Minister**

6J. An electricity distributor 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 5
- (b) keep the Minister informed of the general conduct of its activities, and of any significant development in its activities. 10

**Tendering**

6K. (1) An electricity distributor is to invite tenders before entering into any of the following contracts:

- (a) a contract to carry out any work directed or authorised by or under any Act to be carried out by the distributor; 15
- (b) a contract to perform a service or to provide facilities directed or authorised by or under any Act to be performed or provided by the distributor;
- (c) a contract for providing goods or materials to the distributor; 20
- (d) a contract for disposal of property of the distributor;
- (e) a contract requiring the payment of instalments by or to the distributor over a period of 2 or more years.

(2) Tenders are to be invited, and invitations to tender are to be made, by public notice and in accordance with any provisions prescribed by the regulations. 25

(3) This section does not apply to the following contracts:

- (a) a contract entered into by an electricity distributor with the Crown (whether in right of the Commonwealth, New South Wales or any other State or a Territory), a Minister of the Crown or a statutory body representing the Crown; 30
- (b) a contract entered into by an electricity distributor with another electricity distributor; 35

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

- 5 (c) a contract for the purchase or sale by an electricity distributor of land;
- (d) a contract for the leasing of land by an electricity distributor;
- 10 (e) a contract for purchase or sale by an electricity distributor at public auction;
- (f) a contract for the purchase of goods, materials or services specified by the State Contracts Control Board or the Department of Administrative Services of the Commonwealth, made with a person so specified, during a period so specified and at a rate not exceeding the rate so specified;
- 15 (g) a contract for the purchase of goods, materials or services entered into by an electricity distributor with a person on similar terms and conditions as agreed between the person and another electricity distributor for the purchase of goods, materials or services of that type if:
- 20 (i) the other electricity distributor invited tenders in accordance with this section; and
- (ii) the contract is entered into within 12 months of the other electricity distributor accepting the person's tender;
- 25 (h) a contract for the employment of a person as an employee of the electricity distributor;
- 30 (i) a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, the electricity distributor decides (and records the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders;
- 35 (j) a contract for which, because of provisions made by or under another Act, an electricity distributor is exempt from the requirement to invite a tender;
- (k) a contract made in a case of emergency;
- 40 (l) a contract involving an estimated expenditure or receipt of an amount of less than \$100,000 or such other amount as may be prescribed by the regulations.



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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Contracting out**

6L. (1) An electricity distributor must not itself provide goods, materials, services, facilities or works which are estimated to cost not less than \$250,000 or such greater amount as may be prescribed by the regulations unless the distributor: 5

- (a) has invited tenders for their provision; and
- (b) has itself prepared a tender for their provision; and 10
- (c) has compared its own tender with any other tenders received.

(2) In deciding whether or not to accept the tender of another person, the electricity distributor may take the following matters into consideration: 15

- (a) whether the distributor already provides goods, materials, services, facilities or works of that kind;
- (b) its capacity and qualifications to provide the goods, materials, services, facilities or works in comparison with those of a tenderer; 20
- (c) whether the private market for the goods, materials, services, facilities or works is a competitive market;
- (d) any savings to the distributor through contracting out;
- (e) the ability of the distributor to monitor a contract;
- (f) the long-term, as well as the short-term, effects of contracting out or of contracting with a particular tenderer, including possible future increases in costs relating to the particular contract or other contracts of that kind and the need to retain a capacity to meet emergencies; 25 30
- (g) any other matter the distributor considers relevant.

(3) The electricity distributor must record the reasons for its decision.

(4) This section does not apply to the provision of goods, materials, services, facilities or works: 35

- (a) in a case of emergency; or
- (b) if they are of a kind exempted from this section for the time being by order of the Minister published in the Gazette.

*Electricity (Amendment) 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*****Performance agreements**

5 6M. (1) The Minister and an electricity distributor, after consultation between them, may enter into a performance agreement.

10 (2) A performance agreement is to set operational performance targets for the electricity distributor 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) A performance agreement must include provision for a corporate plan, which may specify:

15 (a) the separate business activities of the electricity distributor; 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

20 (c) the strategies, policies and budgets for achieving those objectives; and

(d) targets and criteria for assessing the performance of the distributor.

25 (4) The electricity distributor must, as far as practicable, exercise its functions in accordance with the performance agreement.

30 (5) The results of the electricity distributor's performance under a performance agreement during a financial year are to be included in the distributor's annual report relating to that year.

**Division 4—Constitution of boards****Board of directors**

35 6N. (1) There is to be a board of directors for each electricity distributor.

(2) Schedule 8 has effect in relation to each such board.

(3) Schedule 9 has effect in relation to board meetings.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Constitution of board of electricity distributor**

6O. (1) The board of directors of an electricity distributor is to consist of: 5

(a) persons from either or both of the following categories:

(i) persons elected as prescribed by the regulations;

(ii) persons having managerial, commercial, financial, legal or other qualifications appointed, as prescribed by the regulations, on the nomination of the councils of the areas specified in Schedule 7 in relation to the distributor; and 10

(b) persons appointed by the Minister in accordance with subsection (2).

(2) The Minister may, from time to time, appoint: 15

(a) up to 2 persons as directors on the boards of directors of Prospect Electricity, Shortland Electricity and Illawarra Electricity; and

(b) 1 person as a director on the board of directors of any other electricity distributor. 20

(3) The number of directors (being not fewer than 5 and not more than 13) elected or appointed under subsection (1) (a) is to be determined from time to time in respect of each electricity distributor by the Minister on the recommendation of the existing board (if any). 25

(4) The directors are to elect each year, from among themselves:

(a) a person to be Chairperson of the electricity distributor; and

(b) a person to be Deputy Chairperson of the distributor. 30

(5) A director appointed by the Minister under this section is not eligible to be the Chairperson or Deputy Chairperson of the distributor.

**Division 5—General manager and staff**

**General manager** 35

6P. (1) There is to be a general manager of each electricity distributor.

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

5 (2) The general manager of an electricity distributor is generally responsible for the efficient and effective operation of the distributor's organisation and for ensuring the implementation, without undue delay, of decisions of the distributor.

10 (3) The general manager has the following particular functions:

- 15 (a) to exercise the day-to-day management of the electricity distributor;
- (b) to exercise such of the functions of the distributor as are delegated by the distributor to the general manager;
- (c) to appoint staff in accordance with an organisation structure and resources approved by the distributor;
- (d) to direct and dismiss staff;
- (e) to implement the distributor's equal employment opportunity management plan.

20 (4) The general manager has such other functions as may be conferred or imposed on the general manager by or under this or any other Act.

25 (5) Any act, matter or thing done in the name of, or on behalf of, an electricity distributor by its general manager, or with the authority of its general manager, is taken to have been done by the distributor.

**Employment of staff**

6Q. Schedule 10 has effect in relation to the employment of staff of an electricity distributor.

**Division 6—Finance**

30 **Establishment of funds**

6R. An electricity distributor is required to establish the following funds:

- (a) a fund to be known as the General Fund;
- (b) a fund to be known as the Trust Fund.

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*
**General Fund**

- 6S. (1) There is to be paid into the General Fund:
- (a) all money received by or on account of the electricity distributor, other than money that is required to be paid into the Trust Fund; and 5
  - (b) all interest and other amounts received in respect of the investment of money belonging to the General Fund; and 10
  - (c) all money borrowed by or advanced to the distributor or appropriated by Parliament for the purposes of the distributor; and
  - (d) all money required to be paid into the General Fund by or under this or any other Act. 15
- (2) There may be paid from the General Fund:
- (a) the remuneration (including allowances) of the directors and staff of the electricity distributor; and
  - (b) all payments made on account of the distributor or otherwise required to meet expenditure incurred in relation to the functions of the distributor; and 20
  - (c) all other payments required by or under this or any other Act to be paid from the General Fund.

**Trust Fund**

- 6T. (1) There is to be paid into the Trust Fund: 25
- (a) all money held by the electricity distributor by way of deposit for any person (including deposits paid to secure a supply of electricity); and
  - (b) all money held by the distributor in the capacity of trustee; and 30
  - (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 Trust Fund:
- (a) repayments of deposits referred to in subsection (1) (a) and interest on any such deposits; and 35
  - (b) payments of money made in accordance with the trusts on which the money is held; and

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (c) all other payments required by or under this or any other Act to be paid from the Trust Fund.

5

**Investment**

6U. An electricity distributor may invest money held by it:

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- (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 the distributor:
- (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.

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**Accounting**

6V. (1) The regulations may provide for the application, with or without modification, of accounting methods, practices and principles by electricity distributors. In particular, provision may be made for or with respect to:

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- (a) the keeping of accounts according to the principles of accrual accounting, using historical cost conventions; and
- (b) application of the principles set out in the document published by the Office of Energy under the title "Code of Accounting Practice and Financial Reporting of Electricity Councils in New South Wales", or set out in any document prescribed by the regulations, as in force from time to time; and
- (c) separate accounting in respect of the cost of reticulation activities; and
- (d) the preparation, for inclusion in the annual report, of accounts of the remuneration and expenses of directors of an electricity distributor.

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**Banking**

6W. All money received on account of the General Fund or the Trust Fund is to be paid into a bank or banks in New South Wales.

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*
**Financial year**

6X. (1) The financial year of an electricity distributor is the year commencing on 1 July. 5

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

**Division 7—Entry and inspection****Definition** 10

6Y. In this Division, “**authorised person**” means a person authorised for the purposes of a provision of this Act by an electricity distributor.

**Authorised persons**

6Z. (1) An electricity distributor may authorise a person to exercise any function conferred or imposed under this Part. 15

(2) The electricity distributor must issue to an authorised person a certificate of authority in a form approved by the distributor.

(3) An authorised person exercising or proposing to exercise a function conferred or imposed under any provision of this Part on or in any land or building must, on request, produce the person’s certificate of authority to a person apparently in charge there. 20

**Power of entry** 25

7. Subject to this Act and the regulations, an authorised person may enter on any land or buildings at all reasonable hours for the purpose of carrying out any of the functions of an electricity distributor under this Act, including:

(a) installing, removing, maintaining, reading or adjusting any electricity property of the distributor, including metering equipment; or 30

(b) checking if the electricity distributor’s conditions relating to tariffs and to the use of electricity are being complied with. 35

*Electricity (Amendment) 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*****Notice of entry**

5 7A. (1) Before an authorised person enters any land or building under a power conferred by this Division, the general manager 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.

10 (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

15 (b) if entry is required urgently and the case is one in which the general manager has in writing authorised (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.

**20 Use of force**

7B. (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 Division.

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

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

**Notification of use of force or entry without notice**

35 7C. 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 of intention to enter as required by this Division was not served on the owner or occupier of the land or building,



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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

the general manager 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 general manager or authorised person to be appropriate in the circumstances. 5

**Exercise of functions**

7D. In the exercise of a function conferred or imposed by this Division, an authorised person must:

- (a) do as little damage as possible; and 10
- (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**

7E. If an authorised person enters any land or building under this Division 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 the distributor on or in the land or building, the electricity distributor may recover the reasonable costs of the entry and inspection from the owner or occupier of the land or building. 15  
20

**Compensation**

7F. (1) An electricity distributor must compensate all interested parties for any damage caused by it under this Division, other than damage arising from work done for the purpose of an inspection. 25

(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. 30

**Discontinuance of supply following refusal of access or obstruction**

7G. (1) If, after production of a written authority issued by the electricity distributor to an authorised person, any person: 35

- (a) refuses or fails to give the authorised person access at any reasonable time to any premises supplied with electricity by the distributor for the purpose of

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

5 installing, removing, examining, reading or adjusting any electricity metering equipment or for the purpose of checking if the distributor's conditions relating to tariffs and to the use of electricity are being complied with; or

10 (b) obstructs the authorised person in relation to any act, matter or thing done or to be done in carrying out those purposes,

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

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

**Division 8—Miscellaneous**

**Acquisition of land**

20 7H. (1) An electricity distributor may, for the purposes of this Act, acquire land (including an interest in land) by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.

25 (2) An electricity distributor may not give a proposed acquisition notice under the Land Acquisition (Just Terms Compensation) Act 1991 without the approval of the Minister.

30 (3) For the purposes of the Public Works Act 1912, any such acquisition of land is taken to be for an authorised work and the distributor is, in relation to that authorised work, taken to be the Constructing Authority.

(4) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in respect of works constructed under this Act.

**Special purpose companies**

35 7I. (1) In this section:

“special purpose company” means a company in which electricity distributors have a controlling interest.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) For the purpose of carrying on a joint enterprise in relation to any of their functions, two or more electricity distributors may, with the approval of the Minister, form or participate in the formation of a special purpose company. 5

(3) An electricity distributor may, with the approval of the Minister:

- (a) acquire interests in a special purpose company; or
- (b) sell or otherwise dispose of interests in a special purpose company. 10

(4) The Minister must not grant an approval under this section unless satisfied that any guidelines for the time being issued by the Premier relating to the formation and operation of subsidiary companies are complied with. 15

**Discontinuance of supply for failure to pay**

7J. (1) If a person fails to pay an amount to an electricity distributor for electricity supplied by it, the distributor 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 the distributor in discontinuing the supply, are paid. 20

(2) An electricity distributor is not liable for any loss or damage suffered by any person as a consequence of discontinuing a supply of electricity under this section. 25

**Power to break up roads etc.**

7K. (1) An electricity distributor may, on giving the notice or notices required by the regulations:

- (a) open and break up the soil and pavement of a public road or public reserve; and 30
- (b) open and break up any thing in or under a public road or public reserve; and
- (c) place structures on, over or beneath a public road or public reserve; and
- (d) erect an electric line or other thing relating to the distribution of electricity on, over or beneath a public road or public reserve, 35

for the purpose of exercising its functions.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

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

10 (3) If an electricity distributor 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 the distributor.

**Building approvals for electricity distributor's equipment**

15 7L. (1) To the extent to which the erection or placement of any pipe, wire, pole, cable or other structure or thing (but not a building) to be erected or placed by an electricity distributor requires approval under Part 11 of the Local Government Act 1919, that approval may be given by the distributor, which need not obtain the approval of the local government council.

20

25 (2) The electricity distributor is to have regard, in considering whether an approval under this section is appropriate, to the provisions of Part 11 of the Local Government Act 1919 and of any ordinances made for the purposes of that Part of that Act.

**Charges for placement of distributor's equipment**

30 7M. No annual or other periodic or special charge is payable by an electricity distributor to a local government council for or in respect of any pipe, wire, pole, cable or other structure or thing erected or placed by the distributor in the council's area or for or in respect of the space that it occupies.

**Altering position of conduit of another authority**

35 7N. (1) If:

- (a) an electricity distributor, in order to exercise its functions, needs an alteration to be made in the position of a conduit owned by another person; and

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(b) the alteration would not permanently damage the conduit or adversely affect its operation, the distributor may serve on the person a written notice that complies with subsection (2). 5

(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 10
- (c) include an undertaking by the electricity distributor to pay the reasonable cost of the alteration.

(3) If the alteration is not made as required by the notice, the electricity distributor 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. 15

(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** 20

7O. (1) If a person places a structure or other thing in or near a work of an electricity distributor in such a manner as to interfere with or damage the work, the distributor may:

- (a) demolish and remove the structure or other thing; and
- (b) repair the work; and 25
- (c) recover the cost of doing so as a debt owing to the distributor by the person who placed the structure or other thing there.

(2) An electricity distributor may apply for an injunction to prevent a structure or other thing being placed as referred to in this section. 30

**Distributor’s fittings not to be taken in execution**

7P. (1) If any electric line, meter, fitting, insulator, apparatus or work of an electricity distributor is placed in or on any place or building (not being in the possession of the distributor) for the purpose of supplying electricity, it is not to be taken in execution under any process of a court of law or equity. 35

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) This section does not affect any execution lawfully issued against an electricity distributor.

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**Waiver or refund of charges etc. by distributor**

7Q. An electricity distributor may waive or refund the whole or any part of any charge, fee or money due to the distributor in any particular case or in any class of cases.

**Presumption of validity**

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7R. The exercise of a function by an electricity distributor or a delegate of the distributor is not invalidated because it is exercised in contravention of a direction by the Minister.

**Personal liability of directors etc.**

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7S. A matter or thing done or omitted by an electricity distributor, a director of an electricity distributor, the general manager or any person acting under the direction of an electricity distributor, the board or the general manager 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 general manager or a person so acting personally to any action, liability, claim or demand.

20

**Industry associations**

7T. An electricity distributor may join any industry association.

25

**Trading names**

7U. An electricity distributor may, with the approval of the Minister, adopt a trading name.

**Seal of distributor**

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7V. The seal of an electricity distributor is to be kept by the general manager and may be affixed to a document only:

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

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Service of documents on electricity distributor**

7W. (1) A document may be served on an electricity distributor by leaving it at, or by sending it by post to: 5

- (a) the office of the distributor; 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 an electricity distributor in any other manner. 10

**Recovery of charges etc. by electricity distributor**

7X. Any charge, fee or money due to an electricity distributor may be recovered by the distributor as a debt in a court of competent jurisdiction. 15

**Minister may direct transfer of assets etc. of electricity distributor**

7Y. (1) The Minister may, by order in writing, direct that any asset, right or liability of an electricity distributor whose distribution district is changed by regulation under section 6A (“the transferor distributor”) be transferred to another electricity distributor (“the transferee distributor”). 20

(2) When any such asset, right or liability is transferred by an order under this section, the following provisions have effect (subject to the order directing the transfer): 25

- (a) any asset of the transferor distributor specified in the order vests in the transferee distributor by force of this section and without the need for any conveyance, transfer, assignment or assurance;
- (b) any right or liability of the transferor distributor specified in the order becomes by force of this section a right or liability of the transferee distributor; 30
- (c) all proceedings relating to the asset, right or liability commenced before the transfer by or against the transferor distributor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee distributor; 35

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- 5 (d) anything done or omitted to be done in relation to that asset, right or liability before the transfer by, to or in respect of the transferor distributor is (to the extent that it has any force or effect) taken to have been done or omitted to be done by, to or in respect of the transferee distributor;
- 10 (e) a reference in any other Act, in any instrument made under any Act or in any document of any kind to the transferor distributor is (to the extent that it relates to that asset, right or liability) to be read as, or as including, a reference to the transferee distributor.
- 15 (3) The operation of this section 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
- 20 (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.
- 25 (4) The operation of this section is not to be regarded as an event of default under any contract or other instrument.
- (5) No attornment to the transferee distributor by a lessee from the transferor distributor is required.
- 30 (6) Any instrument executed only for:
- (a) a purpose ancillary to or consequential on the operation of this section; or
- (b) the purpose of giving effect to this section, is not chargeable with stamp duty.
- Dissolution of county councils**
- 35 7Z. (1) The Governor may, by proclamation published in the Gazette:
- (a) dissolve a county council that has electricity functions; or



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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (b) declare that, as from the date of its publication (or from a later date specified in the proclamation) a county council or local government council has no authority to exercise electricity functions. 5
- (2) A proclamation made in accordance with subsection (1) (b) does not preclude the affected county council or local government council from exercising electricity functions in accordance with a contract entered into with its corresponding electricity distributor (as defined in Schedule 11), but otherwise has effect in accordance with its tenor. 10
- (3) In this section, “electricity functions” means the generation, transmission, distribution, reticulation or supply of electricity. 15
- (4) **Parts 2B (Electricity Councils) and 2C (Subsidiaries of Electricity Councils):**  
 Omit the Parts.
- (5) **Sections 11 (Corporation to formulate proposals relating to electricity), 12 (Constitution of county districts):** 20  
 Omit the sections.
- (6) **Section 13A (Corporation may direct supply authority as to charges for and terms of supply):**  
 Omit section 13A (4).
- (7) **Section 14 (Corporation may fix charges for bulk electricity etc.):** 25
- (a) From section 14 (1) and (2), omit “electricity councils” wherever occurring, insert instead “electricity distributors or Sydney Electricity”.
- (b) From section 14 (3), omit “An electricity council”, insert instead “An electricity distributor or Sydney Electricity”. 30
- (c) From section 14 (4), omit “An electricity council which contravenes this section”, insert instead “If an electricity distributor or Sydney Electricity contravenes this section, it”.
- (8) **Section 14AAE (Application of Part to subsidiaries of electricity distributors):** 35  
 Omit “section 7W”, insert instead “section 7I”.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (9) Section 14F (**Payment of subsidies for pensioner rebates out of Electricity Development Fund**):
- 5           From section 14F (1), omit “Prospect County Council, Shortland County Council or Illawarra County Council”, insert instead “Prospect Electricity, Shortland Electricity or Illawarra Electricity”.
- (10) Section 14G (**Supply authority to write off rebates**):
- 10           Omit “or in any ordinance under the Local Government Act 1919”.
- (11) Section 15 (**Electricity Development Fund**):
- (a) From section 15 (2) (a), omit “electricity council”, insert instead “electricity distributor, Sydney Electricity”.
- 15           (b) Omit section 15 (2) (f), insert instead:
- (f) contributions under subsection (2A).
- (c) After section 15 (2), insert:
- (2A) An electricity distributor or Sydney Electricity may with the approval of the Minister (and is required to, if the Minister on the recommendation of the Corporation so directs), in accordance with any conditions imposed by the Minister, contribute to the Fund by way of loan to the Corporation for the purposes of the Fund. The Corporation may apply any such contributions for those purposes in
- 20           accordance with those conditions.
- 25
- (12) Section 16 (**Application of Electricity Development Fund**):
- (a) From section 16 (1) (a), omit “electricity councils” wherever occurring, insert instead “electricity distributors or Sydney Electricity”.
- 30           (b) From section 16 (1) (a) (ii), omit “a council”, insert instead “any of them”.
- (c) Omit section 16 (1) (b), insert instead:
- (b) amounts to electricity distributors or Sydney Electricity in accordance with section 15 (2A);
- 35           (d) From section 16 (1) (c), omit “electricity councils”, insert instead “electricity distributors, Sydney Electricity”.
- (e) From section 16 (2), omit “electricity council”, insert instead “electricity distributor or Sydney Electricity”.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (13) Section 18 (**Agreements as to grants, subsidies etc.**):  
Omit “electricity council” wherever occurring, insert instead  
“electricity distributor or Sydney Electricity”. 5
- (14) Section 19AB (**Contributions by electricity distributors,  
Sydney Electricity and Commission**):  
From section 19AB (1), omit “Electricity councils”, insert  
instead “An electricity distributor, Sydney Electricity”.
- (15) Section 19A (**Definitions**): 10  
Omit the definition of “Council”.
- (16) Section 19G (**Director may direct electricity distributor to  
remove structure**):  
(a) From section 19G (1), omit “a council”, insert instead “an  
electricity distributor or Sydney Electricity”. 15  
(b) From section 19G (1), omit “the council” where firstly  
occurring, insert instead “the distributor or Sydney  
Electricity”.  
(c) From section 19G (1), omit “the area of the council”, insert  
instead “its distribution district”. 20  
(d) From section 19G (2), omit “A council”, insert instead “An  
electricity distributor or Sydney Electricity”.
- (17) Section 25 (**Power of entry**):  
(a) From section 25 (1), omit “electricity council”, insert instead  
“electricity distributor or Sydney Electricity”. 25  
(b) From section 25 (4), omit “electricity supply authority”,  
insert instead “electricity distributor or Sydney Electricity”.
- (18) Part 5A:  
After Part 5, insert:  
**PART 5A—CONDITIONS OF ELECTRICITY** 30  
**SUPPLY**
- Definitions**  
26A. In this Part:  
“**capacity increase**” means increase in the capacity of an  
electricity distributor’s electricity distribution system 35  
(whether by extension or amplification of mains or  
otherwise);

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

5       “customer” means a person who applies for or receives supply of electricity from an electricity distributor;

10       “customer’s installation” means all the customer’s electric wires, cables, appliances, fittings and insulated apparatus installed and used for, or for purposes incidental to, the conveyance, measurement, control or use of electricity supplied or intended to be supplied by an electricity distributor but does not include:

15           (a) any electricity supply main or service line, meter or apparatus that is the property of the distributor and is used solely for the conveyance, measurement or control of electricity supplied to any premises; or

          (b) any movable electrical equipment;

20       “general conditions of supply” means the general conditions of supply in force for the time being under this Part;

25       “metering equipment” means instruments and equipment used to measure the quantity of or the demand for electricity supplied to a customer by an electricity distributor, and includes equipment such as time switches, relays, contactors and the like used to control that supply;

          “point of connection” means the point at which an electricity distributor’s street mains or works are attached to the customer’s installation;

30       “service equipment” means equipment supplied and installed as provided by this Part;

          “service line” means an overhead or underground cable operating at a voltage not exceeding 650 volts and located between an electricity distributor’s street mains or works and a customer’s point of connection.

35       **Entitlement to supply by electricity distributor**

40       26B. (1) A person who applies to an electricity distributor is entitled to be provided with electricity supply or capacity increase if the person either meets the cost of connection to supply or makes a contribution to that cost in accordance with guidelines issued from time to time by the Energy Corporation in consultation with the Government Pricing Tribunal.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) Any person aggrieved by the amount of any cost or contribution payable under subsection (1) may appeal in accordance with the regulations. 5

(3) The regulations may make provision for or with respect to:

(a) what appeals under subsection (2) may be refused on the face of the appeal; and

(b) the referral of the appeal to an arbitrator, whose decision is to be final and binding on the appellant and the distributor concerned; and 10

(c) the application by any such arbitrator of principles determined by the Minister with respect to capital costs and contributions; and 15

(d) the costs of arbitration and the necessity of its availability to persons of poor means.

(4) A person's entitlement under this section to a supply of electricity is subject to any right of the electricity distributor under this Act or the regulations to refuse, suspend or discontinue supply to the person. 20

**Formulation of general conditions of supply**

26C. (1) An electricity distributor must formulate general conditions of supply that make provision for or with respect to the conditions applicable to the supply of electricity by the distributor, and may amend those conditions (by substituting, varying, revoking or adding to them) from time to time. 25

(2) The matters for which the general conditions of supply must make provision include the following:

(a) the charges for electricity supplied and the payment of those charges; 30

(b) the payments to be made by a customer for any installation work done or to be done by the distributor on a customer's premises or incidental to the provision of a supply of electricity to the customer; 35

(c) the proper care and custody of any metering or other equipment installed by the distributor;

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(d) such other matters as may be provided for, under this Part, in the general conditions of supply;

(e) installation and servicing requirements.

(3) The general conditions of supply (and any amendment of them) are to be publicly notified by notification published in a newspaper circulating generally in the region of the electricity distributor and take effect on publication of the notification or on such later date as may be specified in the notification.

(4) The provisions of the general conditions of supply must not be inconsistent with the provisions of this Act.

(5) An electricity distributor is to ensure that a copy of the general conditions of supply is available for inspection by any person free of charge at each office of the distributor during ordinary office hours.

**Conditions applicable to supply of electricity**

26D. (1) A person who applies for or receives supply of electricity from an electricity distributor is to be considered to have entered into an agreement with the distributor containing the provisions of the general conditions of supply as in force from time to time.

(2) Subsection (1) applies to a person even if supply to the person commenced before the commencement of this Part.

(3) An electricity distributor may require a person who applies for supply of electricity to enter into an agreement (an **“alternative agreement”**) with the distributor that makes provision for or with respect to any of the matters for which the general conditions of supply may make provision.

(4) A person who enters into an alternative agreement with an electricity distributor is not subject to the general conditions of supply except to the extent that the alternative agreement otherwise provides.

(5) An electricity distributor is entitled to refuse, suspend or discontinue supply of electricity to a person who contravenes any provision of the general conditions of supply, any alternative agreement applicable to the person or any requirement imposed on the person under the general conditions of supply or any such alternative agreement.

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*
**Requirement for security**

26E. (1) An electricity distributor may require a customer to give security for payment of all sums due to it or that may become due to it from the customer. 5

(2) The general conditions of supply may make provision with respect to such security.

**Metering equipment**

26F. (1) An electricity distributor may require the installation of such metering equipment as it thinks necessary for ascertaining the quantity of or demand for electricity supplied to a customer. 10

(2) For that purpose the electricity distributor may do any of the following: 15

(a) supply and install, or arrange for the supply and installation of, metering equipment;

(b) require the customer to supply and install metering equipment;

(c) require the customer to make provision for the supply, mounting and installation of metering equipment. 20

(3) An electricity distributor may require the customer to pay the whole or any part of the cost of the supply and installation of metering equipment.

(4) The position and standards of installation of metering equipment are to be as determined by the electricity distributor. 25

**Service equipment**

26G. (1) An electricity distributor may require the installation of such equipment (“**service equipment**”) as it thinks necessary for or reasonably incidental to the provision of a supply of electricity to a customer. 30

(2) For that purpose the electricity distributor may do any of the following:

(a) supply and install, or arrange for the supply and installation of, service equipment; 35

(b) require the customer to supply and install service equipment;

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(c) require the customer to make provision for the supply, mounting and installation of service equipment.

5 (3) An electricity distributor may require the customer to pay the whole or any part of the cost of the supply and installation of service equipment.

(4) The position and standards of installation of service equipment are to be as determined by the electricity distributor.

**Sealing of equipment**

26H. An electricity distributor may affix seals to a customer's installation if of the opinion it is necessary or desirable to do so.

**Failure of metering equipment to register correctly**

26I. (1) This section applies when an electricity distributor finds that:

(a) metering equipment has ceased to register or has ceased to register correctly the quantity of or demand for electricity supplied; or

(b) electricity has been supplied without passing through metering equipment; or

(c) metering equipment registering supply is no longer of the appropriate rating to register the quantity of or demand for electricity supplied.

(2) In any such case the electricity distributor may estimate the quantity of or demand for electricity supplied but not registered for any period of up to 6 months before the finding was made.

(3) The customer is liable to pay for the electricity so estimated.

(4) Metering equipment is to be regarded as not reading correctly if (and only if) its error in registration is greater than 2%, either in excess or deficiency.

**Service lines**

26J. (1) An electricity distributor may require the installation of such service lines as it thinks necessary to provide a supply of electricity to a customer.



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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (2) For that purpose the electricity distributor may do any of the following:
- (a) supply and install, or arrange for the supply and installation of, a service line; 5
  - (b) require the customer to supply and install a service line;
  - (c) require the customer to make such provision as the distributor decides is necessary for the attachment of any service line. 10
- (3) An electricity distributor may require the customer to pay the whole or any part of the cost of the supply and installation of a service line. 15
- (4) The type, construction and route of a service line and the point of connection are to be as determined by the electricity distributor. 15
- (5) An electricity distributor may require a customer to be provided with more than one point of connection if the distributor thinks it necessary to avoid interference with the supply of electricity to any other customer. 20
- Imposition of requirements as to installation and use of apparatus etc.**
- 26K. (1) An electricity distributor may:
- (a) impose such requirements as to the installation and use of electrical appliances and equipment by the customer as the distributor thinks necessary or desirable to prevent or minimise adverse effects on the supply to other customers; and 25
  - (b) impose requirements relating to loading of and the balancing of the load over the phases of the customer's supply; and 30
  - (c) impose requirements relating to the location and accessibility of metering and service equipment relating to supply to the customer; and 35
  - (d) impose requirements as to the minimum rupture rating or minimum breaking capacity of the customer's main protective devices; and

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RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

5 (e) require the customer to install relays, current transformers and other protective equipment having characteristics to suit the distributor's protective system.

(2) A customer must comply with any requirement imposed on the customer under this section.

10 (3) The general conditions of supply may make provision for or with respect to any of the matters referred to in subsection (1).

**Unauthorised connections**

15 26L. (1) A person must not without the permission of the electricity distributor:

- 15 (a) connect a customer's installation to an electricity distributor's mains; or
- 20 (b) connect an addition or alteration to a customer's installation so as to cause the supply of electricity to the installation or any part of it to be incorrectly metered.

25 (2) An electricity distributor may (without prejudice to any other remedy available to it) discontinue the supply of electricity to a customer's installation which is connected in contravention of this section until supply can be provided in accordance with this Part.

**Installation of transformers etc. on customer's premises**

30 26M. (1) This section applies when the supply of electricity required by a customer is, in the opinion of the electricity distributor, in excess of that which can be provided by service line from its street mains and supply can best be given by installing transformers, switchgear and other equipment on the premises to be supplied.

35 (2) In such a case, the electricity distributor may require the customer to provide free of cost, for use of the distributor, a place within those premises to accommodate the transformers, switchgear and other equipment that the distributor is of the opinion should be installed.

40 (3) The place provided must be a place that is considered suitable by the electricity distributor and must be enclosed in a manner approved by the distributor.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Recovery of costs of increasing capacity of system**

26N. (1) An electricity distributor may require a person who applies for supply of electricity or for an increase in supply of electricity to pay or agree to pay the whole of a specified part of the reasonable costs incurred or to be incurred by the distributor in capacity increase, being capacity increase: 5

- (a) that has been or will be necessary to supply electricity or increase the supply of electricity to the customer; or 10
- (b) that took place in the 6 years prior to the customer's connection to supply or application for an increase in supply and would have been necessary to supply electricity or to increase the supply of electricity to the customer. 15

(2) An electricity distributor must not require payments from 2 or more persons under this section in respect of any particular capacity increase that in total exceed the reasonable costs incurred or to be incurred by the distributor in respect of the capacity increase. 20

(3) An electricity distributor may, in the prescribed circumstances, refund any payment made in accordance with this section.

(4) An electricity distributor may enter into agreements for the purposes of this section. 25

**Interruption to supply for maintenance etc.**

26O. An electricity distributor is entitled to interrupt the supply of electricity to a customer at such reasonable times as the distributor may decide for the purpose of inspecting, testing or carrying out repairs or maintenance work on the electricity distribution system or for such other purpose as the distributor considers necessary for the efficient operation of that system. 30

**Liability for failure to supply 35**

26P. An electricity distributor is not liable for any loss suffered by any person as a consequence of any failure to supply electricity, or of any defect in that supply, if the failure or defect is caused by the breakdown of machinery or by causes not within the distributor's control. 40

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***
**Customer to give 48 hours' notice of discontinuance of supply**

5           26Q. (1) A customer must give the electricity distributor not less than 48 hours' notice of the customer's desire that the supply of electricity to the customer be discontinued.

10           (2) If that notice is not given, the customer remains liable for all charges (including minimum charges) in respect of the supply concerned until 48 hours after the electricity distributor becomes aware of the customer's desire that supply be discontinued or until the distributor discontinues or transfers that supply, whichever happens first.

**Offences**

15           26R. Unless authorised to do so by an electricity distributor, a person must not:

- 20           (a) wilfully destroy, damage or interfere with any metering equipment, service equipment, line, post, pillar, lamp fitting, installation or other thing that is the property of the distributor and relates to electricity distribution; or
- 25           (b) alter or attempt to alter the register of any metering equipment or in any way prevent or attempt to prevent any metering equipment from correctly registering the quantity of or demand for electricity supplied by the distributor.

Maximum penalty: 50 penalty units.

**Refusal etc. of supply for contravention of this Part**

30           26S. An electricity distributor is entitled to refuse, suspend or discontinue supply of electricity to a person who contravenes any provision of this Part.

**Application of this Part to Sydney Electricity**

35           26T. This Part applies to Sydney Electricity in the same way as to an electricity distributor, but so applies:

- (a) as if a reference in this Part to the distribution district of an electricity distributor were a reference to the Sydney Electricity District; and
- (b) with such other adaptations as may be prescribed by the regulations.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (19) Section 27 (**Restrictions on supply of electricity**):  
Omit section 27 (1).
- (20) Section 27AA (**Restrictions on certain works**): 5  
 (a) In section 27AA (1), after “line”, insert “or any reticulation system”.  
 (b) Omit section 27AA (2), insert instead:  
 (2) This section:  
 (a) does not apply to the Electricity Commission; and 10  
 (b) in respect of transmission lines, does not apply to an electricity distributor or Sydney Electricity; and  
 (c) in respect of reticulation systems, does not apply to an electricity distributor or Sydney Electricity.
- (21) Section 27AB (**Approvals**): 15  
 (a) From section 27AB (a), omit “valid; and”, insert instead “valid”.  
 (b) Omit section 27AB (b).
- (22) Section 27AC (**Offences**):  
 (a) From section 27AC (2), omit “a council”, insert instead “an electricity distributor or Sydney Electricity” 20  
 (b) From section 27AC (2), omit “with the permission of the relevant council and”.  
 (c) Omit section 27AC (3).
- (23) Section 28A (**Electricity supply authorities—personal liability of members etc.**): 25  
 Omit the section.
- (24) Section 37 (**Regulations**):  
 (a) From section 37 (2) (a1), (a2), (ee), (ff) and (gg), omit “electricity councils” wherever occurring, insert instead “electricity distributors” 30  
 (b) From section 37 (2) (b1), omit “and assistant general managers of county councils that are electricity councils”, insert instead “of electricity distributors”.  
 (c) From section 37 (2) (hh), omit “and” where lastly occurring. 35

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(d) After section 37 (2) (ii), insert:

- 5 (jj) capital contributions to be made by customers to  
electricity distributors or Sydney Electricity in respect  
of works and connections, and the resolution, by  
arbitration or otherwise, of disputes arising in relation  
to such contributions; and
- 10 (kk) the provision, to the owners and occupiers of land, of  
information concerning the nature, purpose and effect  
of easements vested in or to be vested in an electricity  
supply authority;
- (ll) the appointment of deputies of directors of an  
electricity distributor;
- 15 (mm) the transmission, distribution, reticulation or use of  
electricity;
- (nn) offences relating to the distribution and use of  
electricity and any works or property of an electricity  
distributor or Sydney Electricity;
- 20 (oo) requiring the carrying out of work to remove a danger  
or to remedy a defect relating to the distribution,  
transmission or use of electricity within a distribution  
district;
- (pp) the opening of the surface of roads;
- 25 (qq) restricting or regulating the removal or trimming of  
trees by an electricity distributor or Sydney Electricity;  
and
- (rr) the application to an electricity distributor, with or  
without modification, of a specified provision of the  
Local Government Act 1919 or of any ordinance made  
under that Act.
- 30

(e) Omit section 37 (3), insert instead:

- (3) A regulation may create an offence punishable by a  
penalty not exceeding:
- 35 (a) 200 penalty units in the case of a body corporate; or  
(b) 100 penalty units in any other case.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***
**(25) Section 39:**

After section 38, insert:

<b>Savings, transitional and other provisions</b>	<b>5</b>
39. Schedule 11 has effect.	

**(26) Schedules 7–11:**

Omit Schedule 7, insert instead:

<b>SCHEDULE 7—ELECTRICITY DISTRIBUTORS</b>	
(Sec. 6)	<b>10</b>
Central West Electricity	
Cabonne Shire (part)	
Cowra Shire	
Forbes Shire	
Lachlan Shire	<b>15</b>
Parkes Shire	
Weddin Shire	
Illawarra Electricity	
Bega Valley Shire	
Eurobodalla Shire	<b>20</b>
Kiama Municipality	
Shellharbour Municipality	
Shoalhaven City	
Wingecarribee Shire	
Wollongong City	<b>25</b>
Monaro Electricity	
Bombala Shire	
Cooma-Monaro Shire	
Snowy River Shire	
Murray River Electricity	<b>30</b>
Albury City	

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

	Balranald Shire
	Berrigan Shire
5	Conargo Shire
	Corowa Shire
	Deniliquin Municipality
	Hume Shire
	Jerilderie Shire
10	Murray Shire
	Wakool Shire
	Wentworth Shire
	Windouran Shire
	Murrumbidgee Electricity
15	Carrathool Shire
	Griffith City
	Hay Shire
	Leeton Shire
	Murrumbidgee Shire
20	Narrandera Shire (part)
	Namoi Valley Electricity
	Brewarrina Shire
	Bourke Shire
	Gunnedah Shire
25	Narrabri Shire
	Unincorporated area (part)
	Walgett Shire
	New England Electricity
	Armidale City
30	Dumaresq Shire
	Uralla Shire (part)
	Walcha Shire



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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

North West Electricity	
Bingara Shire	
Glen Innes Municipality	5
Guyra Shire	
Inverell Shire	
Moree Plains Shire	
Severn Shire	
Uralla Shire (part)	10
Yallaroi Shire	
 Northern Riverina Electricity	
Bland Shire	
Coolamon Shire	
Cootamundra Shire	15
Junee Shire	
Narrandera Shire (part)	
Temora Shire	
 Northern Rivers Electricity	
Ballina Shire	20
Bellingen Shire	
Byron Shire	
Casino Municipality	
Coffs Harbour City	
Copmanhurst Shire	25
Grafton City	
Kyogle Shire	
Lismore City	
Maclean Shire	
Nambucca Shire	30
Nymboida Shire	
Richmond River Shire	
Tweed Shire	
Ulmarra Shire	

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

5	Ophir Electricity Blayney Shire Cabonne Shire (part) Orange City
10	Oxley Electricity Great Lakes Shire (part) Greater Taree City Hastings Municipality Kempsey Shire
15	P-CCC Electricity Barraba Shire Manilla Shire Murrurundi Shire Nundle Shire Parry Shire Quirindi Shire Tamworth City
20	Prospect Electricity Baulkham Hills Shire Blacktown City Blue Mountains City Camden Municipality
25	Campbelltown City Fairfield City Greater Lithgow City Hawkesbury City Holroyd City
30	Liverpool City Parramatta City Penrith City

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

Rylstone Shire	
Wollondilly Shire	
Shortland Electricity	5
Cessnock City	
Dungog Shire	
Gloucester Shire	
Great Lakes Shire (part)	
Lake Macquarie City	10
Maitland City	
Merriwa Shire (part)	
Muswellbrook Shire	
Newcastle City	
Port Stephens Shire	15
Scone Shire	
Singleton Shire	
South West Slopes Electricity	
Boorowa Shire	
Harden Shire	20
Young Shire	
Southern Mitchell Electricity	
Bathurst City	
Evans Shire	
Mudgee Shire (part)	25
Oberon Shire	
Southern Riverina Electricity	
Culcairn Shire	
Holbrook Shire	
Lockhart Shire	30
Urana Shire	
Wagga Wagga City	

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

	Southern Tablelands Electricity
5	Crookwell Shire
	Goulburn City
	Gunning Shire
	Mulwaree Shire
	Queanbeyan City
10	Tallaganda Shire
	Yarrowlumla Shire
	Yass Shire
	Tumut River Electricity
	Gundagai Shire
15	Tumbarumba Shire
	Tumut Shire
	Ulan Electricity
	Coolah Shire
	Coonabarabran Shire
20	Merriwa Shire (part)
	Mudgee Shire (part)
	Western Power
	Bogan Shire
	Cobar Shire
25	Coonamble Shire
	Dubbo City
	Gilgandra Shire
	Narromine Shire
	Warren Shire
	Wellington Shire

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**SCHEDULE 8—BOARDS OF DIRECTORS**

(Sec. 6N)

<b>Definitions</b>	5
1. In this Schedule:	
“ <b>appointed director</b> ” means a member of the board of an electricity distributor appointed by the Minister under section 6O;	
“ <b>elected director</b> ” means a member of the board of an electricity distributor elected or appointed under section 6O as prescribed by the regulations.	10
<b>Chairperson of electricity distributor</b>	
2. (1) The board of directors of an electricity distributor may, with the approval of the Minister, remove a director from the office of Chairperson or Deputy Chairperson of the distributor at any time.	15
(2) A person who is a director and Chairperson or Deputy Chairperson of an electricity distributor vacates office as Chairperson or Deputy Chairperson if the person:	20
(a) is removed from that office by the board; or	
(b) resigns that office by instrument in writing addressed to the board; or	
(c) ceases to be a director.	
(3) The Chairperson’s or Deputy Chairperson’s term of office is 12 months, after which time he or she (if otherwise qualified) is eligible for re-election.	25
<b>Terms of office of directors</b>	
3. (1) Subject to this Schedule, an elected director holds office until the director’s successor is elected or appointed.	30
(2) Subject to this Schedule, an appointed director holds office for such period (not exceeding 3 years) as may be specified in the instrument of appointment of the director.	
<b>Remuneration</b>	
4. A director of an electricity distributor:	35
(a) is entitled to be paid such remuneration as the Minister may from time to time determine in respect of the director; and	

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

- 5 (b) is entitled to be paid such travelling and subsistence allowances as the board may from time to time determine in respect of the director.

**Vacancy in office of directors**

- 10 5. (1) The office of a director becomes vacant if the director:
- (a) dies; or
- 15 (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
- 20 (d) is removed from office under this Act; or
- (e) is absent from 4 consecutive meetings of the board of which reasonable notice has been given to the director personally or in the ordinary course of post, except on leave granted by the board or unless, before the expiration of 4 weeks after the last of those meetings, the director is excused by the board for having been absent from those meetings; or
- 25 (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
- 30 (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
- 35 (i) in the case of an elected director, ceases to hold the qualifications necessary for election or appointment to the position.
- (2) The Minister may remove an elected or appointed director from office for incapacity, incompetence or misbehaviour.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***
**Disclosure of pecuniary interests**

6. (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 board of directors; and 5
  - (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, 10
- 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 board.
- (2) A disclosure by a director at a meeting of the board that the director: 15
- (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, 20
- 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). 25
- (3) Particulars of any disclosure made under this clause are to be recorded by the board 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 board. 30
- (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 board with respect to the matter; or 35
  - (b) take part in any decision of the board with respect to the matter.

*Electricity (Amendment) 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

5 (5) For the purpose 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

10 (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 board.

15 (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 the distributor) 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**

20 7. (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 elected director; or

25 (b) at any other time—the vacancy is to be filled at an election in accordance with the regulations made for the purposes of section 60 to be held as soon as practicable (but, in any event, within 3 months) after the vacancy occurs.

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

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

**Dismissal of board**

8. (1) The Minister may, in circumstances prescribed by the regulations, dismiss an entire board from office.



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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

- (2) Regulations made for the purposes of this clause:
- (a) may make provision for or with respect to a public inquiry into the affairs of the board; and 5
  - (b) may make provision for the appointment, functions and dismissal of an administrator; and
  - (c) must make provision for the election or appointment of a new board within 12 months of the board's dismissal.
- Effect of certain other Acts** 10
9. (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 15
  - (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. 20
- (3) The office of director is not, for the purposes of any Act, an office or place of profit under the Crown. 25

**SCHEDULE 9—BOARD MEETINGS**

(Sec. 6N)

**General procedure**

1. The procedure for the calling of meetings of the board of directors of an electricity distributor and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the board. 30

**Quorum**

2. The quorum for a meeting of the board is the number of directors prescribed by the regulations. 35

*Electricity (Amendment) 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*****Presiding member**

5           3. (1) The Chairperson of an electricity distributor or, in the absence of the Chairperson, the Deputy Chairperson, is to preside at a meeting of the board.

          (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 board.

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

**Voting**

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

**Transaction of business outside meetings or by telephone etc.**

20          5. (1) The board may, if it thinks fit, transact any of its business by the circulation of papers among all the directors 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 board.

25          (2) The board may, if it thinks fit, transact any of its 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.

30          (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 as they have at an ordinary meeting of the board.

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

          (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.

*Electricity (Amendment) 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*****Attendance of general manager at meetings**

6. (1) The general manager of an electricity distributor has the right to attend meetings of the board and to take part in discussions at those meetings as if the general manager were a director, but is not entitled to vote on any question which is to be decided by a vote of the directors. 5

(2) A general manager is not entitled to be present at any meeting of the board during any discussion which concerns the appointment, dismissal, salary or conditions of employment of the general manager. 10

(3) A general manager is to:

(a) attend any meeting of the board at which the general manager is required by the board to attend; and 15

(b) give to the board any advice and assistance reasonably required by the board, and for the purpose is to arrange for the attendance at such a meeting of such employees of the electricity distributor as may be necessary, having regard to the business to be transacted at the meeting. 20

**First meeting**

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

**SCHEDULE 10—STAFF OF ELECTRICITY  
DISTRIBUTORS 25**

(Sec. 6Q)

**PART 1—STAFF GENERALLY****Appointment, salary, conditions etc. of staff**

1. (1) An electricity distributor may employ such staff as it requires to exercise its functions. 30

(2) An electricity distributor 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.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***
**Regulations relating to staff**

5           2. (1) The regulations may make provision for or with respect to the employment of the staff of an electricity distributor, 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:

10           (a) have effect subject to any relevant award made by a competent industrial tribunal and to any industrial agreement to which the electricity distributor is a party; and

          (b) have effect despite any determination of the distributor.

**Use of staff or facilities of departments etc.**

15           3. An electricity distributor may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of another electricity distributor, a government department, an administrative office or a public or local authority.

**Consultants**

20           4. An electricity distributor may engage such consultants as it requires to exercise its functions.

**PART 2—ORGANISATION STRUCTURE****Determination of structure**

25           5. (1) An electricity distributor must determine:  
          (a) an organisation structure; and  
          (b) those positions within the organisation structure that are senior staff positions (including senior management staff positions); and  
30           (c) the resources to be allocated towards the employment of staff.

          (2) An electricity distributor may not determine a position to be a senior staff position if the remuneration for the position is less than:

35           (a) the lowest level of the “executive band” of the Local Government (State) Award as in force at the commencement of this clause; or

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

- (b) such other amount as may be prescribed by the regulations.

**Re-determination of structure** 5

6. The organisation structure may be re-determined by the distributor from time to time.

**PART 3—THE GENERAL MANAGER AND  
SENIOR STAFF**

**General manager of an electricity distributor** 10

7. (1) The Governor may, on the recommendation of the Minister and the nomination of the board of directors of an electricity distributor, appoint a person so recommended and nominated to be the general manager of the distributor.

- (2) The general manager of an electricity distributor is taken, while holding that office, to be employed by the distributor. However, the distributor may not remove the general manager from office. 15

- (3) A person is not to be nominated by an electricity distributor for appointment as the general manager unless: 20

- (a) the position has been advertised and the proposed appointment notified as required by the regulations (if any); and

- (b) the person has suitable executive, technical and administrative experience and qualifications; and 25

- (c) the person is the most meritorious applicant for the position.

- (4) If a vacancy occurs in the position of general manager of the electricity distributor, a person must, in accordance with this clause, immediately be appointed to or to act in the vacant position. 30

- (5) A director of the board is not to be appointed as general manager or acting general manager.

**Distributor to be consulted as to appointment and dismissal of senior management staff** 35

8. The general manager of an electricity distributor may appoint or dismiss senior management staff only after consultation with the board of directors of the distributor.

*Electricity (Amendment) 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*****Terms of employment for senior staff**

5           9. Subject to this Act, the appointment and terms of employment of senior staff of an electricity distributor are to be in accordance with any guidelines issued by the Minister.

**Nature of contracts for general manager and senior staff**

10          10. (1) The general manager and senior staff of an electricity distributor are to be employed under contracts that are performance-based.

            (2) The term of a contract must not be less than 12 months or more than 5 years (including any option for renewal). A term that is less than 12 months is taken to be for 12 months and a term for more than 5 years is taken to be limited to 5 years.

15           (3) Contracts may be renewed from time to time.

**Annual reporting of contracts for senior staff**

20          11. The general manager of an electricity distributor must, at least once annually, report to the distributor on the contractual conditions of senior staff.

**Industrial arbitration excluded**

            12. (1) In this clause, a reference to the employment of the general manager or a senior staff member is a reference to:

25           (a) the appointment of, or failure to appoint, a person to the vacant position of general manager or to a vacant senior staff position; or

            (b) the removal, retirement, termination of employment or other cessation of office of the general manager or a senior staff member; or

30           (c) the remuneration or conditions of employment of the general manager or a senior staff member.

            (2) The employment of the general manager or a senior staff member, or any matter, question or dispute relating to any such employment, is not an industrial matter for the purposes of the Industrial Relations Act 1991.

35           (3) Subclause (2) applies whether or not any person has been appointed to the vacant position of general manager or a vacant senior staff position.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(4) No award, agreement, contract determination or order made or taken to have been made or continued in force under the Industrial Relations Act 1991, whether made before or after the commencement of this clause, has effect in relation to the employment of the general manager or senior staff members. 5

(5) No proceedings for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction, or for any other relief, lie in respect of the appointment of or failure to appoint a person to the position of general manager or to a senior staff position, the entitlement or non-entitlement of a person to be so appointed or the validity or invalidity of any such appointment. 10  
15

**Duty to report bankruptcy**

13. (1) If a person who is a senior staff member becomes bankrupt or makes a composition, arrangement or assignment for the benefit of the person's creditors, the person must:

(a) immediately give notice of the bankruptcy, composition, arrangement or assignment to the general manager; and 20

(b) provide the general manager with any further information concerning the cause of the bankruptcy or of the making of the composition, arrangement or assignment required by the general manager within a time specified by the general manager. 25

(2) This clause applies to the general manager in the same way as it applies to a senior staff member and so applies as if references to the general manager were references to the electricity distributor. 30

**PART 4—EQUAL EMPLOYMENT OPPORTUNITY****Objects of Part**

14. The objects of this Part are:

(a) to eliminate and ensure the absence of discrimination in employment in electricity distributors on the grounds of race, sex, marital status and physical impairment; and 35

*Electricity (Amendment): 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

- 5 (b) to promote equal employment opportunity for women, members of racial minorities and physically handicapped persons in electricity distributors.

**Preparation and implementation of management plans**

- 10 15. (1) An electricity distributor must prepare and implement an equal employment opportunity management plan in order to achieve the objects of this Part.
- 10 (2) The plan is to include provisions relating to:
- 15 (a) the devising of policies and programs by which the objects of this Part are to be achieved; and
- 15 (b) the communication of those policies and programs to persons within the staff of the electricity distributor; and
- 20 (c) the collection and recording of appropriate information; and
- 20 (d) the review of personnel practices within the distributor (including recruitment techniques, selection criteria, training and staff development programs, promotion and transfer policies and patterns, and conditions of service) with a view to the identification of any discriminatory practices; and
- 25 (e) the setting of goals or targets, where these may reasonably be determined, against which the success of the plan in achieving the objects of this Part may be assessed; and
- 30 (f) the means, other than those referred to in paragraph (e), of evaluating the policies and programs referred to in paragraph (a); and
- 30 (g) the revision and amendment of the plan; and
- 30 (h) the appointment of persons within the distributor to implement the provisions referred to in paragraphs (a)–(g).
- 35 (3) An equal employment opportunity management plan may include provisions, other than those referred to in subclause (2), that are not inconsistent with the objects of this Part.
- 40 (4) An electricity distributor may, from time to time, amend its equal employment opportunity management plan.



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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***
**Inconsistencies with the Anti-Discrimination Act 1977**

16. (1) The provisions of an equal employment opportunity management plan, to the extent of any inconsistency between those provisions and the provisions of the Anti-Discrimination Act 1977, prevail. 5

(2) This clause does not apply to or in respect of the provisions of a plan which are the subject of a reference under this Part to the Anti-Discrimination Board or the Director of Equal Opportunity in Public Employment. 10

**References**

17. (1) Where the Minister is dissatisfied with any matter relating to the preparation, amendment or implementation of an equal employment opportunity management plan by an electricity distributor or any failure or omission of an electricity distributor with respect to the preparation, amendment or implementation of any such plan, the Minister may refer the matter to the Anti-Discrimination Board or the Director of Equal Opportunity in Public Employment. 15  
20

(2) The provisions of section 122N of the Anti-Discrimination Act 1977, and the succeeding provisions of Part 9A of that Act, apply to and in respect of a reference under this clause to the Anti-Discrimination Board as if it were a reference under section 122M of that Act and as if the electricity distributor were an authority within the meaning of that Part. 25

**PART 5—OTHER PROVISIONS CONCERNING  
STAFF****Advertising of staff positions 30**

18. (1) When it is proposed to make an appointment to a position within the organisation structure of an electricity distributor, the position must be advertised in a manner sufficient to enable suitably qualified persons to apply for the position. 35

(2) If the position is a senior staff position, the requirement of this clause is satisfied if the position is advertised at least twice in a daily newspaper circulating throughout the State.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(3) This clause does not apply to:

- 5 (a) the re-appointment, under a new contract, of a senior staff member whose contract has expired; or
- (b) the appointment of an employee if the term of employment is for not more than 3 months or for 2 or more periods that together are not more than 3 months in any period of 6 months.

10 **Appointments to be on merit**

19. (1) When the decision is being made to appoint a person to a position:

- 15 (a) only a person who has applied for appointment to the position may be selected; and
- (b) from among the applicants eligible for appointment, the applicant who has, in the opinion of the general manager (in consultation with the board of directors, if the position is a senior management staff position), the greatest merit is to be selected.

20 (2) The merit of the persons eligible for appointment to a position is to be determined according to:

- (a) the nature of the duties of the position; and
- 25 (b) the abilities, qualifications, experience and standard of work performance of those persons relevant to those duties.

**Appointments to which clauses 18 and 19 do not apply**

20. Clauses 18 and 19 do not apply to:

- 30 (a) an appointment by way of demotion; or
- (b) an appointment by way of a lateral transfer, unless the electricity distributor decides that those clauses are to apply to the appointment.

**Independence of staff for certain purposes**

35 21. (1) The general manager or a member of staff of an electricity distributor is not subject to a direction by the board of directors of the distributor as to the content of any advice or recommendation made by the member.

(2) This clause does not prevent the board of directors of an electricity distributor from directing the general manager or a member of staff to provide advice or a recommendation.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***
**Other work**

22. (1) The general manager must not engage, for remuneration, in private employment or contract work outside the service of the electricity distributor without the written approval of the board of directors of the distributor. 5

(2) A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the electricity distributor that relates to the business of the distributor or that might conflict with the member's duties as a member of staff of the distributor unless he or she has notified the general manager in writing of the employment or work. 10

(3) The general manager may prohibit a member of staff from engaging, for remuneration, in private employment or contract work outside the service of the electricity distributor that relates to the business of the distributor or that might conflict with the member's duties as a member of staff of the distributor. 15  
20

(4) A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the electricity distributor if prohibited from doing so under subclause (3).

**SCHEDULE 11—SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS** 25

(Sec. 39)

**PART 1—GENERAL****Savings and transitional regulations**

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts: 30

Electricity (Amendment) Act 1993.

(2) In particular, the regulations may, in the case of the enactment of the Electricity (Amendment) Act 1993, provide for the resolution of disputes, or to avoid doubt, may be made with respect to whether any person employed or thing done or used by a former electricity council was employed or done or used in connection with its electricity functions. 35

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

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

(4) 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:

10 (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

15 (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 THE  
ENACTMENT OF THE ELECTRICITY  
(AMENDMENT) ACT 1993**

20 **Definitions**

2. (1) In this Schedule:

25 “**corresponding electricity distributor**”, in relation to a former electricity council, means the electricity distributor specified by the proclamation that dissolves the council or declares that the council has no authority to exercise electricity functions;

“**defunct county council**” means a county council dissolved by proclamation under this Act;

30 “**electricity function**” means the generation, distribution, transmission, reticulation or supply of electricity;

“**former electricity council**” means a local government council or a county council that, immediately before the appointed day, was authorised under an Act to supply electricity to the public.

35 (2) In any provision of this Schedule, “**appointed day**”, in relation to a defunct county council or a former electricity council, means the day on which the council is dissolved or ceases to have authority to exercise electricity functions.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***
**Transfer of assets, rights and liabilities**

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

- |  |          |
|--|----------|
|  | 5        |
| (a) any assets of a former electricity council that were used for or in connection with its electricity functions vest in the corresponding electricity distributor without the need of any conveyance, transfer, assignment or assurance;   | 10       |
| (b) the rights and liabilities of each former electricity council in connection with its electricity functions become by virtue of this clause the rights and liabilities of the corresponding electricity distributor;  |          |
| (c) all proceedings commenced before the appointed day by or against a former electricity council in connection with its electricity functions and pending immediately before the appointed day are taken to be proceedings pending by or against the corresponding electricity distributor;   | 15<br>20 |
| (d) any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of a former electricity council in connection with its electricity functions 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 the corresponding electricity distributor. | 25       |
| (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  | 30       |
| (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.  | 35       |

*Electricity (Amendment) 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(3) The operation of this clause is not to be regarded as an event of default under any contract or other instrument.

(4) No attornment to an electricity distributor by a lessee from a former electricity council is required.

**Existing councillors of defunct county councils**

4. (1) A person who, immediately before the appointed day, held office as Chairman or a councillor of a defunct county council:

(a) ceases to hold that office; and

(b) holds office, subject to this Act, as Chairperson or a director, respectively, of the corresponding electricity distributor.

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

**Existing general manager of defunct county council**

5. (1) A person who, immediately before the appointed day, held office as general manager of a defunct 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 a defunct county council is taken to have been appointed under this Act as the general manager of the corresponding electricity distributor under the terms and for the remaining duration of the general manager's existing employment contract with the defunct county council.

**Continuity of staff of former electricity council**

6. (1) The persons who were, immediately before the appointed day, members of staff of a former electricity council employed in connection with its electricity functions are taken to be members of staff of the corresponding electricity distributor employed under this Act.

*Electricity (Amendment) 1993*


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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*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 employment contracts, 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 former electricity council. 5

(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. 10

**Saving of water supply functions of certain defunct county councils**

7. (1) Subject to the regulations, any functions of a water supply authority that, immediately before the appointed day, were exercisable by a former electricity council are to be exercised by the corresponding electricity distributor. 15

(2) The exercise of any such functions may, in accordance with arrangements approved by the Minister or the Minister administering the Water Supply Authorities Act 1987, be delegated to the former electricity council. 20

**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: 25

(a) defunct county councils; and

(b) the production and supply of electricity,

do not apply to or in respect of an electricity distributor. 30

(2) The provisions of the Local Government Act 1919 and the ordinances made under that Act relating to the employment of persons by a former electricity council in connection with its electricity functions do not apply to a person employed under this Act, except as provided by this clause. 35

(3) Section 99 of the Local Government Act 1919 continues to apply to a person who, immediately before the

*Electricity (Amendment) 1993*


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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

5

appointed day, was an employee of a former electricity council in connection with its electricity functions and who was the subject of an inquiry, or suspended, under that section.

**Superseded references**

10

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:

15

(a) to a former electricity council in connection with its electricity functions is taken to be a reference to the corresponding electricity distributor; or

(b) the chairman of a defunct county council is taken to be a reference to the Chairperson of the corresponding electricity distributor; or

20

(c) to a delegate to a defunct county council is taken to be a reference to a director of the corresponding electricity distributor; or

(d) to the general manager of a defunct county council is taken to be a reference to the general manager of the corresponding electricity distributor.

**Existing resumptions and appropriations**

25

10. An acquisition of land by compulsory process, and the assessment and payment of compensation relating to the acquisition that was commenced before the appointed day by or on behalf of a former electricity council in connection with its electricity functions is to be completed or otherwise dealt with by or on behalf of the corresponding electricity distributor in accordance with the provisions of clause 3.

30

**Saving of operation of County Districts Reconstitution Act 1979, s. 8**

35

11. Section 8 of the County Districts Reconstitution Act 1979 continues to apply for the good of any person to whom it applied immediately before its repeal by this Act.



**SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO  
ELECTRICITY ACT 1945**

(Sec. 3)

- (1) Section 4 (**Definitions**):
- (a) From the definition of “Cathodic protection system” in section 4 (1), omit “, but does not include any such appliances, wires, fittings or other apparatus installed on a floating mobile structure or on any equipment used for the taking of fish”. 5
- (b) Insert in section 4 (1), in alphabetical order: 10
- “**Stray current source**” means any appliance, equipment, fitting or other apparatus:
- (a) that operates on direct electrical current or is designed or used to generate or transmit direct electrical current; and 15
- (b) that is attached, whether directly or indirectly, to a metallic structure in contact with land, including water.
- (2) Section 5 (**Constitution of the Electricity Council**):
- (a) From section 5 (3), omit “17”, insert instead “16”. 20
- (b) From section 5 (3), omit “15”, insert instead “14”.
- (c) Omit section 5 (4) (e).
- (3) Section 9 (**Powers of Corporation relating to the generation and supply of electricity**):
- Omit section 9 (1) (f). 25
- (4) Section 14AAA (**Corporation empowered to effect or arrange insurance policies etc.**):
- (a) In section 14AAA (1), after “applies.”, insert “The Corporation may also enter into, or arrange for the authorities to enter into, a self-insurance scheme of the kind to which subsection (2A) applies.”. 30
- (b) After section 14AAA (2), insert:
- (2A) For the purposes of subsection (1), a self-insurance scheme is of a kind to which this subsection applies if it is a

*Electricity (Amendment) 1993*


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SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO  
ELECTRICITY ACT 1945—*continued*

5 scheme under which money is set aside to indemnify an electricity supply authority covered by the scheme in respect of any prescribed liability, loss or damage incurred or sustained during the currency of the scheme by that authority (being a prescribed liability, loss or damage that is specified in the scheme).

- (c) In section 14AAA (3), after “policy”, insert “or scheme”.
- 10 (d) In section 14AAA (4), after “policy”, insert “or self-insurance scheme”.
- (e) From section 14AAA (5), omit “subsection (2)”, insert instead “this section”.
- 15 (f) In section 14AAA (6), after “policy”, insert “or self-insurance scheme”.

(5) Section 14AAF:

After section 14AAE, insert:

**Investment of surplus from premium**

20 14AAF. Money in the Electricity Development Fund that was paid to the Fund for the purpose of effecting insurance, or for management for self-insurance purposes, in accordance with this Part but which is not required for the payment of premiums may be invested by the Corporation:

- 25 (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 on the Corporation to invest money—in securities in which trustees are by law authorised to invest.

(6) Sections 19B–19E:

30 Omit the sections, insert instead:

**Contribution by distributors**

35 19B. An electricity distributor and Sydney Electricity must contribute annually towards the annual charges for the lighting of traffic routes an amount determined by the Minister in consultation with the Minister administering the Traffic Act 1909.

*Electricity (Amendment) 1993*

**SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO  
ELECTRICITY ACT 1945—*continued***

- (7) Section 19H (**Payments of subsidies for removal etc. of electricity structures out of Traffic Route Lighting Subsidy Account**): 5  
     Omit the section.
- (8) Section 25 (**Power of entry**):  
     From section 25 (1), omit “or cathodic protection system”, insert instead “, cathodic protection system or stray current source”. 10
- (9) Section 28:  
     Before section 28A, insert:  
     **Delegation of functions**  
     28. (1) The Minister may delegate to an authorised person any of the functions of the Minister under this Act, other than this power of delegation. 15  
     (2) A delegate may sub-delegate to an authorised person any function delegated by the Minister if the delegate is authorised in writing to do so by the Minister.  
     (3) In this section “authorised person” means: 20  
     (a) a public authority or local authority or an officer of a public authority or local authority; or  
     (b) a public servant; or  
     (c) a person of a class prescribed by the regulations.
- (10) Section 37 (**Regulations**): 25  
     In section 37 (2) (a3), (b) and (d), after “cathodic protection systems” wherever occurring, insert “and stray current sources”.

**SCHEDULE 3—AMENDMENT OF OTHER ACTS**

(Sec. 4) 30

**Electricity Commission Act 1950 No. 22**

- (1) Section 3 (**Definitions**):  
     (a) From section 3 (1), omit the definition of “Council”.

*Electricity (Amendment) 1993*SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

- (b) From section 3 (1), omit the definition of “Electricity supply authority”, insert instead:

5           **“Electricity supply authority”** means a person or body engaged in the supply of electricity to the public or in the generation of electricity for supply, directly or indirectly, to the public whether by statute, franchise agreement or otherwise and includes:

- 10           (a) the Commission; or  
              (b) an electricity distributor within the meaning of the Electricity Act 1945; or  
              (c) Sydney Electricity; or  
              (d) the State Rail Authority; or  
              (e) the Water Administration Ministerial Corporation.

- 15       (2) Section 9 (**Powers of Commission**):

Omit section 9 (2), insert instead:

20           (2) The Commission must not supply electricity to any person for use within the distribution district of an electricity distributor constituted under the Electricity Act 1945, or within the Sydney Electricity District as defined in the Sydney Electricity Act 1990, except:

- 25           (a) with the approval of the Minister, on the recommendation of the Corporation; and  
              (b) on such terms and conditions as may be approved by the Minister, on the recommendation of the Corporation and after consultation with the electricity distributor concerned.

- (3) Section 78:

After section 77, insert:

30           **Assignment of certain easements**

78. (1) The Commission may, by notification published in the Gazette, assign to an electricity distributor constituted under the Electricity Act 1945 or Sydney Electricity any easement vested in the Commission.

*Electricity (Amendment) 1993*SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

(2) The assignment takes effect on publication of the notification in the Gazette or on a later date specified in the notification, and takes effect without the need of execution or registration of any other instrument.

5

(3) The Registrar-General may make such recordings in a folio of the Register kept under the Real Property Act 1900 or other records kept or maintained by the Registrar-General as appear to the Registrar-General to be proper to be made in order to record the assignment of an easement under this section and, if need be, may for that purpose require any further particulars of the easement to be furnished by the Commission, the electricity distributor or Sydney Electricity.

10

**Government and Related Employees Appeal Tribunal Act 1980 No. 39**

15

**Schedule 4 (Employing Authorities):**

Before “Board of Fire Commissioners of New South Wales.”, insert:

An electricity distributor within the meaning of the Electricity Act 1945.

20

**Government Pricing Tribunal Act 1992 No. 39****Schedule 1 (Government Agencies for which Tribunal has Standing Reference):**

(a) After “Sydney Electricity”, insert:

An electricity distributor within the meaning of the Electricity Act 1945, and Broken Hill City Council and Tenterfield Shire Council in relation to their exercise of the functions of an electricity distributor under that Act

25

(b) From the matter relating to county councils, omit “or electricity”.

30

**Land Development Contribution Management Act 1970 No. 22****Section 7 (Time when declared land becomes liable for contribution):**

From section 7 (6), omit “a county council or a council”, insert instead “an electricity distributor within the meaning

35

*Electricity (Amendment) 1993*SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

of the Electricity Act 1945 or Broken Hill City Council or Tenterfield Shire Council (in the exercise of the functions of an electricity distributor within the meaning of that Act)".

5 **Public Authorities (Financial Arrangements) Act 1987 No. 33**Schedule 1 (**Authorities**):

## (a) Insert in alphabetical order:

An electricity distributor constituted under the Electricity Act 1945.

10

## (b) Omit:

Central West County Council.

Illawarra County Council.

Macquarie County Council.

Monaro County Council.

15

Murray River County Council.

Murrumbidgee County Council.

Namoi Valley County Council.

New England County Council.

North West County Council.

20

Northern Riverina County Council.

Northern Rivers County Council.

Ophir County Council.

Oxley County Council.

Peel-Cunningham County Council.

25

Prospect County Council.

Shortland County Council.

South West Slopes County Council.

Southern Mitchell County Council.

Southern Riverina County Council.

30

Southern Tablelands County Council.

Tumut River County Council.

Ulan County Council.

*Electricity (Amendment) 1993*SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued***Public Finance and Audit Act 1983 No. 152**

## Schedule 2 (Statutory Bodies):

## (a) Insert in appropriate alphabetical order of body:

An electricity distributor constituted under the Electricity Act 1945. 5

## (b) Omit:

Central West County Council.  
 Illawarra County Council.  
 Macquarie County Council. 10  
 Monaro County Council.  
 Murray River County Council.  
 Murrumbidgee County Council.  
 Namoi Valley County Council.  
 New England County Council. 15  
 Northern Rivers County Council.  
 North-West County Council.  
 Ophir County Council.  
 Peel-Cunningham County Council.  
 Prospect County Council. 20  
 Shortland County Council.  
 Southern Mitchell County Council.  
 Southern Tablelands County Council.  
 South-west Slopes County Council.  
 Tumut River County Council. 25  
 Ulan County Council.

**Traffic Act 1909 No. 5**

## Parts 3C, 3D:

Before Part 4, insert:

**PART 3C—TRAFFIC ROUTE LIGHTING 30****Definitions**

10X. In this Part:

“council” means a local government council;

*Electricity (Amendment) 1993*SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

“**traffic route**” means a public road within the meaning of the Local Government Act 1919:

- 5 (a) which has been proclaimed or declared as a main or secondary road under the State Roads Act 1986; or
- 10 (b) which, if not so proclaimed or declared, the Authority has, by reason of the volume of vehicular or pedestrian traffic carried on it, determined requires lighting to a standard approved by the Authority.

**Payments of subsidies**

15 10Y. (1) The Authority may with the approval of the Minister grant annual subsidies to councils for the lighting, to a standard approved by the Authority, of traffic routes.

20 (2) Before granting any such subsidy the Authority may require a council to enter into an agreement with the Authority to secure the carrying out of the purposes for which, and the terms and conditions on and subject to which, the subsidy is granted.

**Authority to make available money for subsidies**

25 10Z. (1) In the period of 12 months commencing on 1 July next succeeding the commencement of this Part and in each period of 12 months thereafter, the Authority must make available the amount of subsidies that the Minister with the concurrence of the Treasurer estimates will be granted to councils under this Part in that period of 12 months.

30 (2) The Minister, before the commencement of each period of 12 months referred to in subsection (1), is to serve a notice on the Authority specifying the amount of the payment required.

35 (3) An amount payable under this section in any period of 12 months is to be paid in such sum or sums, at such time or times during that period and in such manner as the Minister may require in and by the notice referred to in subsection (2).



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 SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

(4) The Authority may make the whole or any part of a payment required by this section out of the Roads and Traffic Authority Fund under the Transport Administration Act 1988.

5

**PART 3D—ELECTRICITY STRUCTURES****Definitions**

10ZA. In this Part:

“**electricity distributor**” means an electricity distributor within the meaning of the Electricity Act 1945 and includes Sydney Electricity or Broken Hill City Council or Tenterfield Shire Council in the exercise of the functions of an electricity distributor under that Act;

10

“**electricity structure**” means any structure erected or maintained by an electricity distributor within the meaning of the Electricity Act 1945 for the purpose of transmission or distribution of electricity or for the purpose of public lighting;

15

“**traffic route**” has the same meaning as in Part 3B.

**Payments of subsidies for removal etc. of electricity structures**

20

10ZB. (1) The Authority may, with the approval of the Minister grant subsidies to an electricity distributor for or towards the cost of removing or relocating electricity structures erected, within the distribution district of the distributor, on or adjacent to public roads, being electricity structures which the Authority has determined require removal or relocation for the purposes of traffic safety.

25

(2) Before granting any such subsidy, the Authority may require an electricity distributor referred to in subsection (1) to enter into an agreement with the Authority to secure the carrying out of the purposes for which, and the terms and conditions upon and subject to which, the subsidy is granted.

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*Electricity (Amendment) 1993*

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SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

**Unclaimed Money Act 1982 No. 174**

**Section 3 (Definitions):**

5           In paragraph (g) of the definition of “business” in section 3 (1), after “1919”, insert “or an electricity distributor within the meaning of the Electricity Act 1945”.

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## ELECTRICITY (AMENDMENT) BILL

The Honourable Robert Webster (Minister for Planning and Minister for Housing): I move:

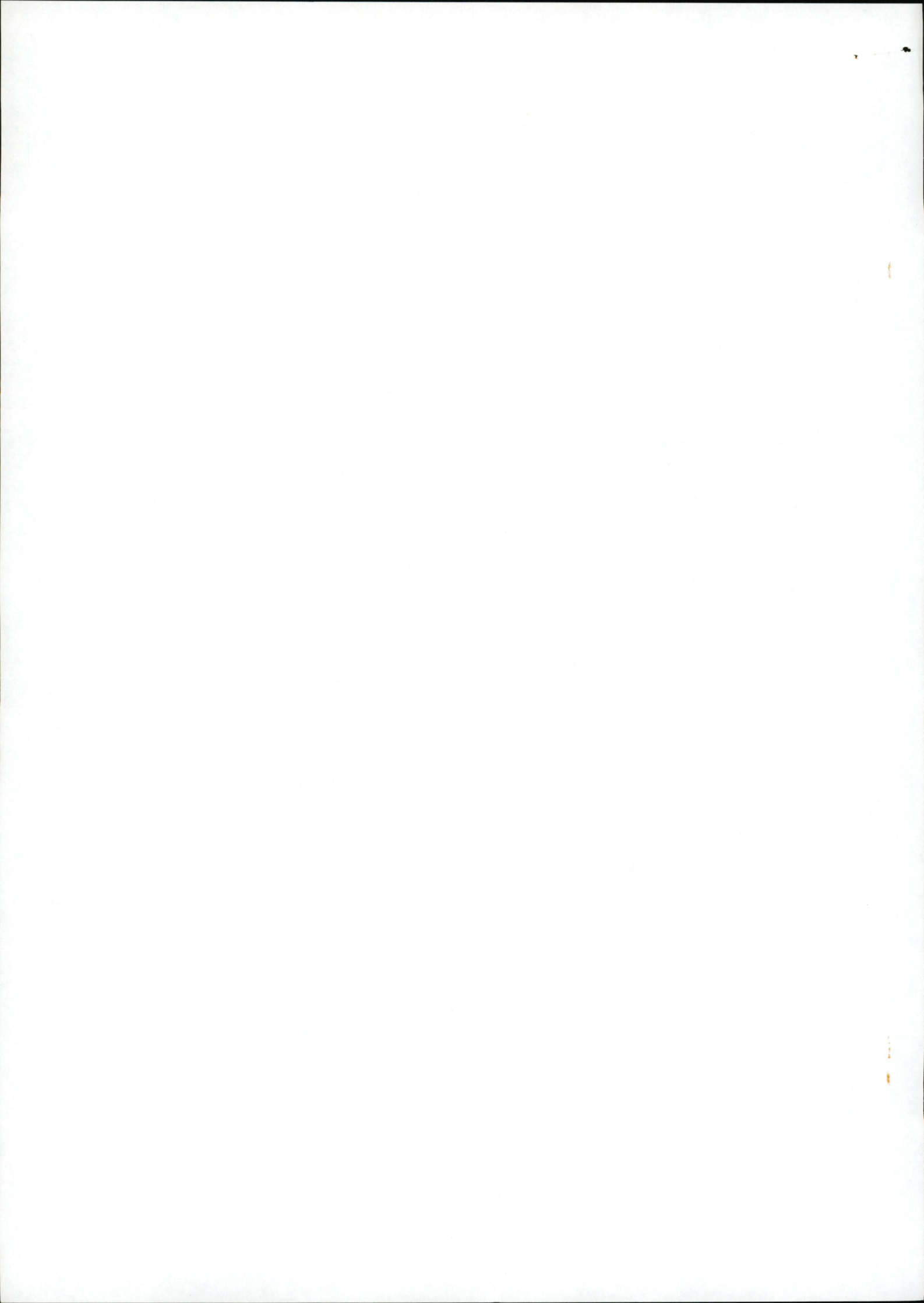
That this Bill now be read a second time.

I seek leave to have the second reading speech incorporated in Hansard.

Towards the close of the last Parliament I introduced the Electricity Corporations Bill. Essentially, the purpose of that Bill was to help the electricity distribution industry ready itself for the move into the twenty-first century with governance structures that are appropriate for the future, not relics of the past. Honourable members will recall - those opposite to their shame - that debate ceased on that Bill following attempts to amend key features of it. Of course, when Parliament was prorogued that Bill lapsed. Since then the Chairman of Prospect Electricity, Alderman Jim Morris, has had a field day in the local press. When the Government told the council that it would be required to pay a dividend to the State, he set out on a campaign of public disinformation. The council cried wolf at every opportunity. It shed crocodile tears in a phoney war of words. It threatened legal action - and then did nothing.

We finished up having to demand payment by 30th April. In its final stalling action the council claimed that it did not like the methodology we used to arrive at the \$75 million and wanted it changed to its own methodology. So we changed to what the council wanted, and the payment increased from \$75 million to \$75,135,000 - an extra \$135,000. That is the price the council paid, on its sums, for being a smart Alec. One could probably add to that another \$100,000 or more: it had Queen's Counsel on call, had legal firms representing it, and had highly expensive and highly professional public relations experts helping Jim Morris make a name for himself. Alderman Morris has been on a long media binge over the dividend. But he has not told the final story.

On Friday, 30th April, at 10.10 a.m., there was a cash electronic transfer to the Government of \$75,135,000 - cash. The council did not have to borrow the money. It was taxpayers' money and it is going back to taxpayers. It will be used to pay our teachers, to put police on the beat, to improve hospitals and the general infrastructure of government. Mindful of the developments that are taking place at the national and State levels with moves towards a national electricity grid and the efforts of my colleague the Minister for Local Government and Minister for Cooperatives to reform the Local Government Act, I am convinced that there are too many potential benefits to the New South Wales distribution industry that may be lost if new legislation is not put in place soon.

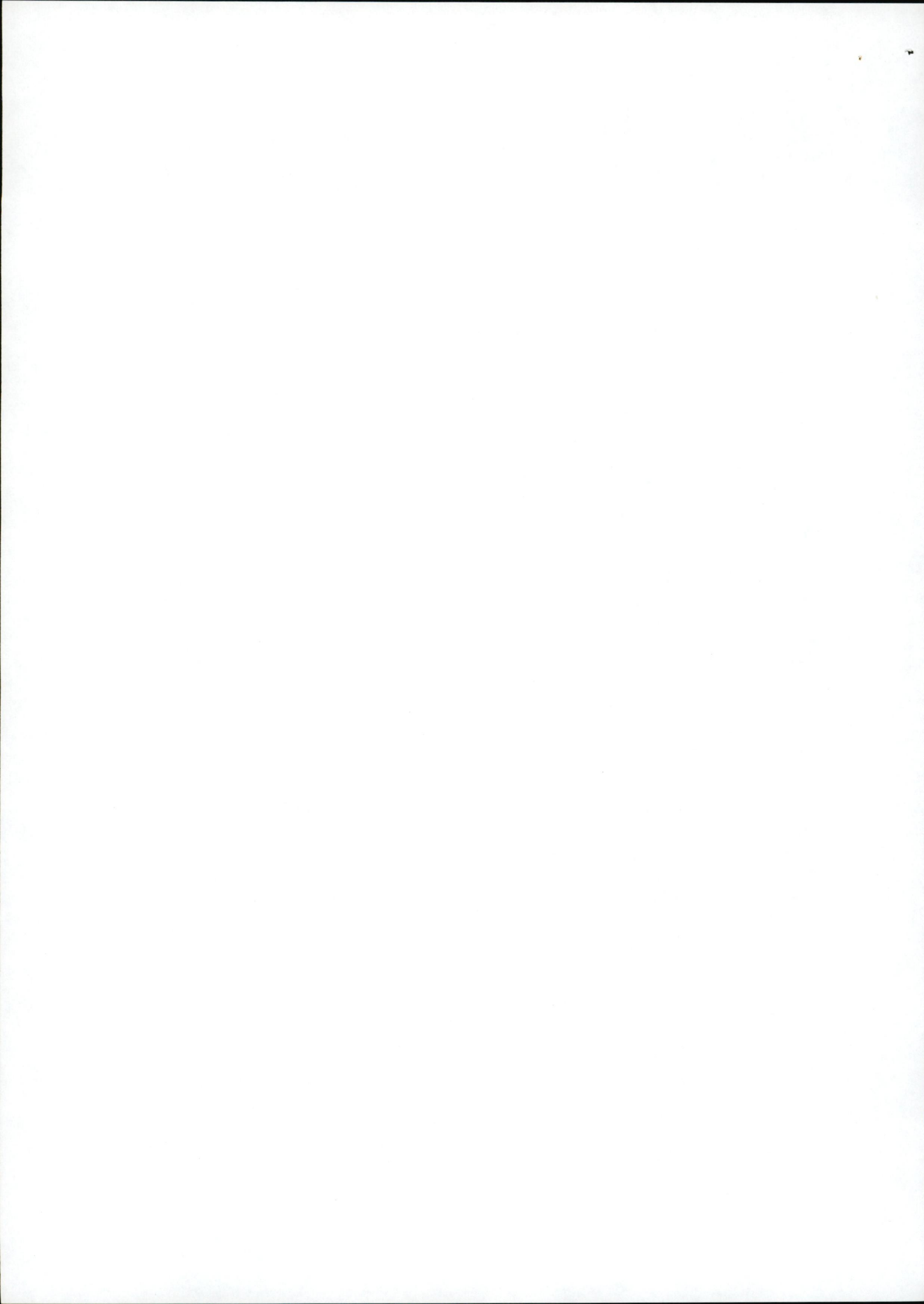


Though the Bill which I present to the House today, the Electricity (Amendment) Bill, regrettably it does not take the reform process as far as my Bill last year, it will nevertheless help the New South Wales industry to meet the challenges of the more competitive electricity market of the future. Under the Bill it is proposed that the present electricity county councils will become electricity distributors created under the Electricity Act. At present electricity councils are constituted under the Local Government Act 1919, which is administered by my colleague the Minister for Local Government and Minister for Cooperatives. However, from an operational perspective, electricity councils are subject to the provisions of the Electricity Act 1945, allocated to the Minister for Energy. This Bill will bring responsibility for electricity fully within the portfolio of the Minister for Energy - something which the Labor Opposition when in government as far back as 1985 sought to achieve.

The main features of the present county councils are retained. The names of the electricity distributors and their constituent local government councils are contained in Schedule 7. Honourable Members will note that Peel-Cunningham County Council will become P triple C and Macquarie County Council will become Western Power. I agreed to these name changes following requests from these county councils. I stress that all county councils will be established on the same basis as they are now, as bodies corporate. Each distributor will have a board comprising members elected from constituent local government areas. The members of the Board will be called directors; previously members of the county councils were called councillors. Directors will have the same role as councillors. Existing councillors will remain as directors until the next local government elections. As is presently the case, the majority of future directors will be nominated by constituent councils.

With the support of the Local Government Electricity Association, I have included in the Bill a provision allowing the constituent councils of a distributor to nominate a person for a directorship position who possesses managerial, commercial, financial or other qualifications, rather than an elected person, if they wish. With the exception of Broken Hill City Council and Tenterfield Shire Council, which will continue to operate as electricity distributors under their current arrangements, the board of each distributor will be restructured following the next local government elections to consist of between five and 13 members. The existing power of the Minister to appoint two additional representatives to metropolitan distributors and one to rural distributors has been retained. This power was included in the Act by the Hon. Peter Cox when he was Minister for Energy.

The Bill clearly sets out the principal functions of electricity distributors. Their main business is to purchase electricity and to supply and distribute it within their respective districts. They will have a duty to promote the safe and efficient use and, for the first time, the conservation of electricity. The principal function of the



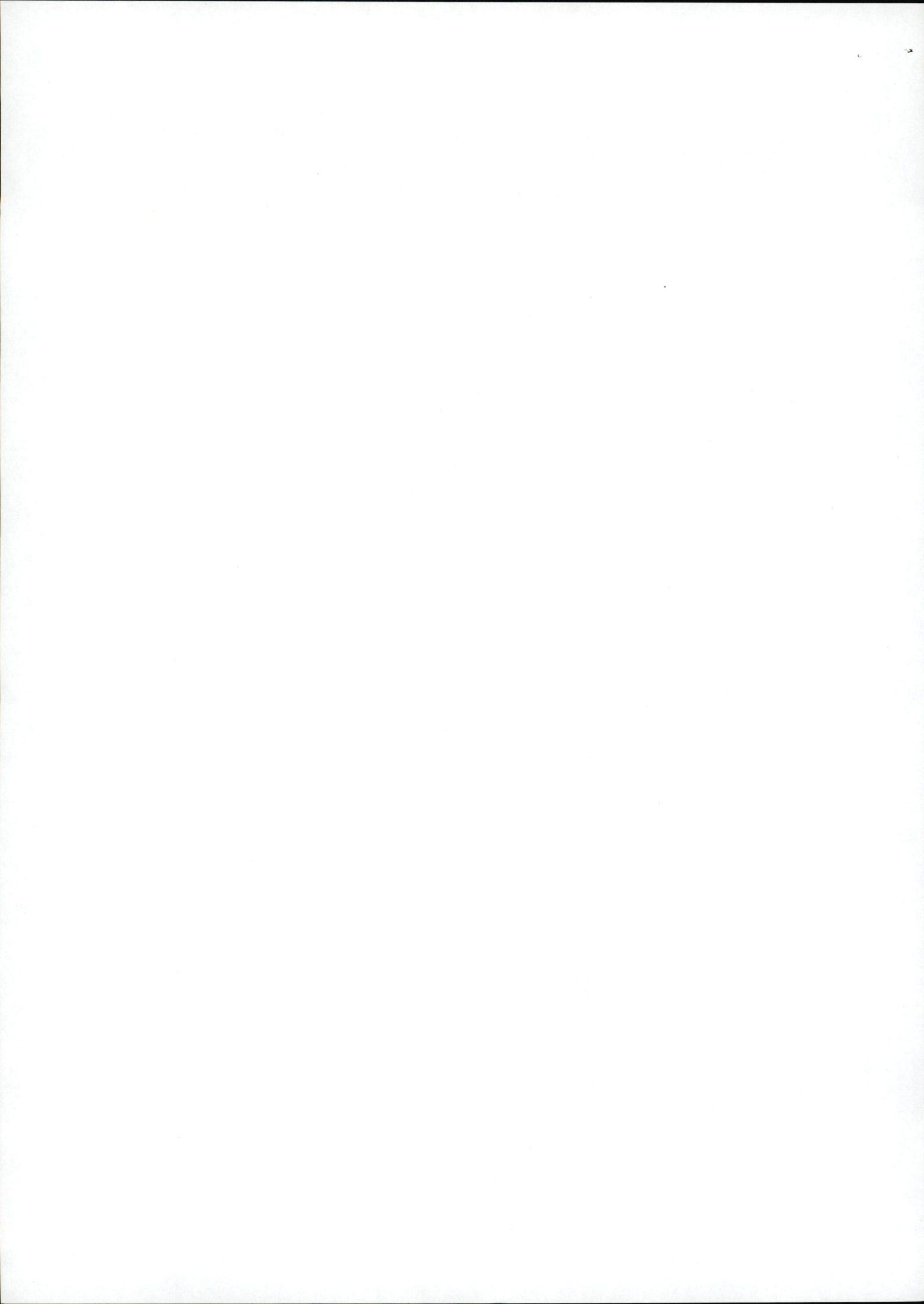
board of directors of an electricity distributor will be to determine the policies of the distributor. In discharging this function, the board has a duty to see that the distributor functions properly and efficiently and in accordance with sound commercial practice. As under the existing provisions of the Electricity Act, the day-to-day management of the distributor will be the responsibility of the general manager.

The existing ministerial powers of direction and control set up by Minister Cox in the 1987 revisions to the Act will be retained and made fairer for distributors. The board of a distributor may request the Minister to review a direction if it considers the distributor would suffer a significant financial loss as a result of complying with the direction and if the direction is contrary to a performance agreement or is not in the distributor's commercial interests. After review, the Minister may confirm or revoke the direction. As in the past, I would expect that the power of direction will be rarely used. In accordance with current commercial practice, distributors will be required to call tenders for larger expenditures to ensure best value is always obtained.

In line with the Government's policy of increasing distributor autonomy and accountability, the Bill provides for distributors to determine the organisational structure appropriate to them and their circumstances. Existing staff and employment conditions are to be preserved. Salary, wages and conditions of employment will continue to be determined by the distributor if they are not determined by any other Act or law. There will be provisions for future new agreements for employment in the same way as the Local Government Bill. The Bill requires the preparation and implementation of equal employment opportunity management plans. In the event of disputes regarding preparation or implementation, the Minister may refer the matter to the Anti-Discrimination Board or the Director of Equal Opportunity in Public Employment. The Bill requires staff positions to be advertised and appointments to be made on merit.

Honourable Members will note that the Bill does not contain provisions to establish regional transmission corporations. These were to be created to own, operate and maintain the 132kV transmission lines following their transfer from Pacific Power to the rural electricity distributors. I have taken this decision because of possible implications of the national grid proposal and opposition to the transfer by some rural distributors. The Bill also includes a number of the earlier miscellaneous amendments to the Electricity Act: the transfer of the traffic route lighting subsidy scheme from the Office of Energy to the Roads and Traffic Authority, the establishment of investment arrangements for surplus industry insurance funds, provision of a capital contributions dispute resolution mechanism and, more generally, an updating and tidying up of the Act.

There are two additional amendments. The first is to extend the regulation-making powers to cover stray current sources.





This will improve the capacity of government to ensure gas and petroleum distribution through pipelines is made safer and more reliable. The amendment was requested by the New South Wales electrolysis committee - a committee which comprises representatives of industry and Commonwealth and New South Wales government utilities. The second additional matter is the power to make regulations restricting or regulating the removal or trimming of trees by an electricity distributor or Sydney Electricity. Honourable Members will recall the public concern engendered when Prospect Electricity was understood to be threatening to cut down or substantially lop thousands of trees in Western Sydney. Of course, the Government would not support wanton destruction. Tree trimming regulations made under this provision will have effect for the whole industry and not just one distributor in isolation. The provision strengthens existing regulations and, together with provisions of the Environment Protection Authority legislation, clearly obviates the need for the private member's bill - the Western Sydney (Tree Preservation) Bill - introduced by the honourable member for Blacktown.

This Bill is a significant step forward in the reform of the electricity industry in this State. Taken with this Government's other initiatives in the electricity industry, for example the introduction of performance agreements and the reform of Pacific Power, I am confident the measures in this Bill will result in keeping the price of electricity within consumer price index increases. This will benefit all consumers in this State, especially those in the business and industrial sectors. It will also provide a sound base for the reticulation and supply of electricity throughout New South Wales and a more streamlined governance for these organisations. I commend the Bill to the House.



SECOND PRINT

**ELECTRICITY (AMENDMENT) BILL 1993**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Electricity Act 1945 (1946 No. 13)
4. Amendment of other Acts
5. Repeal of County Districts Reconstitution Act 1979 No. 185

**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945 RELATING TO  
ELECTRICITY DISTRIBUTORS**

**SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO ELECTRICITY ACT  
1945**

**SCHEDULE 3—AMENDMENT OF OTHER ACTS**

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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly*

*Clerk of the Legislative Assembly.*

NEW SOUTH WALES



Act No.           , 1993

An Act to amend the Electricity Act 1945 to constitute electricity distributors as bodies corporate, and to specify their functions; to provide for the dissolution of certain county councils constituted under the Local Government Act 1919 that are suppliers of electricity; to repeal the County Districts Reconstitution Act 1979; to make consequential amendments to certain Acts; and for other purposes.

*Electricity (Amendment) 1993***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Electricity (Amendment) Act 1993.

**Commencement**

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

**Amendment of Electricity Act 1945 (1946 No. 13)**

3. The Electricity Act 1945 is amended as set out in Schedules 1 and 2.

**Amendment of other Acts**

- 10 4. The Acts specified in Schedule 3 are amended as set out in that Schedule.

**Repeal of County Districts Reconstitution Act 1979 No. 185**

5. The County Districts Reconstitution Act 1979 is repealed.

15 **SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS**

(Sec. 3)

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

- 20 (a) From section 4 (1), omit the definitions of "Council", "County district", "Electricity council" and "Electricity supply authority".

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

"**Distribution**" of electricity includes supply and reticulation of electricity.

25 "**Distribution district**" of an electricity distributor means its distribution district determined under this Act.

"**Electricity distributor**" means an electricity distributor constituted as a body corporate by this Act.

*Electricity (Amendment) 1993*


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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

“**Electricity supply authority**” means a person or body engaged in the distribution of electricity to the public or in the generation of electricity for supply, directly or indirectly, to the public whether by statute, franchise agreement or otherwise and includes: 5

- (a) the Electricity Commission; or
- (b) an electricity distributor; or
- (c) Sydney Electricity; or 10
- (d) the State Rail Authority; or
- (e) the Water Administration Ministerial Corporation.

“**Reticulation**” of electricity means the provision of all conductors and other infrastructure and metering equipment necessary to allow the delivery of electricity from the point of connection of an electricity distributor’s assets to sources of electricity supply, to the point of connection of the distributor’s assets to the assets of an electricity consumer or of an electricity supply authority. 15 20

“**Supply**” of electricity means the delivery and sale to the supplier’s customers of electricity generated or purchased by the supplier.

“**Unincorporated Area**” means the aggregate of those parts of New South Wales that are not within a local government area. 25

(c) After section 4 (1), insert:

(2) A reference (however made or expressed) in this Act to any works or property of an electricity distributor includes a reference to any works or property of the Crown of which the distributor has the care, control or management. 30

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

Omit section 5 (4) (a) (ii)–(iv), insert instead:

- (i) Illawarra Electricity;
- (ii) Prospect Electricity; 35
- (iii) Shortland Electricity;

*Electricity (Amendment) 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*****(3) Part 2A:**

After Part 2, insert:

5

**PART 2A—ELECTRICITY DISTRIBUTORS****Division 1—Constitution****Constitution of electricity distributors and their districts**

6. (1) Each body named in Schedule 7 is an electricity distributor constituted as a body corporate under that name.

10

(2) Each electricity distributor has the distribution district consisting of the local government areas or parts of local government areas, or the unincorporated area or parts of the unincorporated area, indicated beneath its name in Schedule 7. The word “(part)” appearing beside the name of an area specified in Schedule 7 indicates that, of that area, only the part prescribed by the regulations is included in the distribution district.

15

**Amendment of Schedule 7**

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6A. (1) The regulations may do any one or more of the following:

(a) create a new electricity distributor by inserting its name and distribution district in Schedule 7;

(b) dissolve an electricity distributor by removing its name and distribution district from Schedule 7;

25

(c) change the name or distribution district of any electricity distributor named in Schedule 7.

(2) The Minister is not to recommend the making of a regulation with respect to a matter specified in subsection (1) (b) or (c) except with the consent of the electricity distributor concerned or, if that consent is not forthcoming, after an inquiry under Part 5 of the Energy Administration Act 1987 has been held into the objectives of the proposed regulation.

30

(3) A regulation with respect to a matter specified in subsection (1) may contain savings and transitional provisions.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***
**Application of this Act to Broken Hill and Tenterfield Councils**

6B. (1) The Broken Hill City Council or the Tenterfield Shire Council may, if the Minister so approves, exercise the functions of an electricity distributor. 5

(2) The Broken Hill City Council and the Tenterfield Shire Council are, in the exercise of any such functions, subject to this Act (except Division 4) as if they were electricity distributors. 10

(3) In applying this Act to the Broken Hill City Council or the Tenterfield Shire Council:

(a) a reference in this Act to the distribution district of an electricity distributor is taken to be a reference to the area of the Council; and 15

(b) a reference to the board of directors of an electricity distributor is taken to be a reference to the Council.

(4) Such other adaptations as are necessary may be prescribed by the regulations and the regulations may also provide for specified provisions of the Act not to apply to Broken Hill City Council or Tenterfield Shire Council. 20

**Division 2—Functions of an electricity distributor****Principal functions of electricity distributor**

6C. (1) An electricity distributor has the following principal functions: 25

(a) the purchase, transmission and distribution of electricity;

(b) the provision and maintenance of works for the distribution of electricity; 30

(c) the protection of the public from dangers arising from the transmission, distribution and use of electricity;

(d) the promotion of the safe and efficient use of electricity and electrical fittings and appliances;

(e) the promotion of energy conservation and of measures to increase the efficiency of energy transmission and use; 35

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RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- 5 (e) the promotion of energy conservation and of measures to increase the efficiency of energy transmission and use;
- (f) such other functions as are approved by the Minister on the recommendation of the Corporation.

10 (2) An electricity distributor has such other functions as are conferred or imposed on it by or under this or any other Act.

**Ancillary functions of electricity distributor**

6D. (1) In the exercise of its functions, an electricity distributor may:

- 15 (a) conduct any business and, for that purpose, use any property or the services of any staff of the distributor; and
- (b) generate electricity; and
- 20 (c) acquire and develop land as necessary for the exercise of its functions, and dispose of land; and
- (d) acquire or build, and maintain and dispose of, any buildings, plant, machinery, equipment or vehicles; and
- 25 (e) 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
- (f) make charges and impose fees for services performed and goods and materials supplied by it; and
- (g) appoint agents, and act as agents for other persons.

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

**Operations of electricity distributors**

6E. It is the duty of an electricity distributor, in the exercise of its functions related to the supply of electricity:

- 35 (a) to carry out those functions efficiently and economically and to ensure that it has adequate internal audit procedures; and

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (c) except as permitted by or under this Act or by the Corporation, not to supply electricity to any person on terms or at rates different from those on which it supplies other persons having similar technical and quantity requirements and similar patterns of use of electricity. 5

**Exercise of functions outside district**

6F. An electricity distributor may not exercise its functions outside its distribution district except: 10

- (a) with the approval of the Minister, on the recommendation of the Corporation; and  
(b) on such terms and conditions as may be approved by the Minister, on the recommendation of the Corporation and after consultation with the electricity distributors whose distribution districts are affected. 15

**Delegation of functions**

6G. (1) An electricity distributor may delegate to an authorised person any of its functions, other than this power of delegation. 20

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

- (3) In this section, “authorised person” means: 25  
(a) a member of staff of the electricity distributor or any other person of whose services the distributor makes use; or  
(b) a person of a class prescribed by the regulations or of a class approved by the board of directors of the distributor. 30

**Division 3—Electricity distributor policy and practice****Board to determine policies of electricity distributor etc.**

6H. (1) The board of directors of an electricity distributor has the function of determining the policies of the distributor. 35

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

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RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

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

**Ministerial control of distributors**

10 6I. (1) The Minister may give the board of directors of an electricity distributor written directions in relation to the exercise of the distributor's functions.

(2) The board and the general manager of the electricity distributor must ensure that the distributor complies with any such direction, except as provided by this section.

(3) If the board considers that:

- 15 (a) the electricity distributor would suffer a significant financial loss as a result of complying with the direction; and
- 20 (b) the direction is contrary to the provisions of a performance agreement or is not in the commercial interests of the distributor,

the board may request the Minister to review the direction.

25 (4) A request for a review is to contain an estimate of the financial loss the board considers the electricity distributor 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 board requests a review, the electricity distributor is not required to comply with the direction until notified of the Minister's decision following the review.

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

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

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***
**Distributor to provide information to Minister**

6J. An electricity distributor 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 5
- (b) keep the Minister informed of the general conduct of its activities, and of any significant development in its activities. 10

**Tendering**

6K. (1) An electricity distributor is to invite tenders before entering into any of the following contracts:

- (a) a contract to carry out any work directed or authorised by or under any Act to be carried out by the distributor; 15
- (b) a contract to perform a service or to provide facilities directed or authorised by or under any Act to be performed or provided by the distributor;
- (c) a contract for providing goods or materials to the distributor; 20
- (d) a contract for disposal of property of the distributor;
- (e) a contract requiring the payment of instalments by or to the distributor over a period of 2 or more years.

(2) Tenders are to be invited, and invitations to tender are to be made, by public notice and in accordance with any provisions prescribed by the regulations. 25

(3) This section does not apply to the following contracts:

- (a) a contract entered into by an electricity distributor with the Crown (whether in right of the Commonwealth, New South Wales or any other State or a Territory), a Minister of the Crown or a statutory body representing the Crown; 30
- (b) a contract entered into by an electricity distributor with another electricity distributor; 35

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RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- 5
- (b) a contract entered into by an electricity distributor with an electricity supply authority;
- (c) a contract for the purchase or sale by an electricity distributor of land;
- (d) a contract for the leasing of land by an electricity distributor;
- 10
- (e) a contract for purchase or sale by an electricity distributor at public auction;
- (f) a contract for the purchase of goods, materials or services specified by the State Contracts Control Board or the Department of Administrative Services of the Commonwealth, made with a person so specified, during a period so specified and at a rate not exceeding the rate so specified;
- 15
- (g) a contract for the purchase of goods, materials or services entered into by an electricity distributor with a person on similar terms and conditions as agreed between the person and another electricity distributor for the purchase of goods, materials or services of that type if:
- 20
- (i) the other electricity distributor invited tenders in accordance with this section; and
- 25
- (ii) the contract is entered into within 12 months of the other electricity distributor accepting the person's tender;
- (h) a contract for the employment of a person as an employee of the electricity distributor;
- 30
- (i) a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, the electricity distributor decides (and records the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders;
- 35
- (j) a contract for which, because of provisions made by or under another Act, an electricity distributor is exempt from the requirement to invite a tender;

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Contracting out**

6L. (1) An electricity distributor must not itself provide goods, materials, services, facilities or works which are estimated to cost not less than \$250,000 or such greater amount as may be prescribed by the regulations unless the distributor: 5

- (a) has invited tenders for their provision; and
- (b) has itself prepared a tender for their provision; and 10
- (c) has compared its own tender with any other tenders received.

(2) In deciding whether or not to accept the tender of another person, the electricity distributor may take the following matters into consideration: 15

- (a) whether the distributor already provides goods, materials, services, facilities or works of that kind;
- (b) its capacity and qualifications to provide the goods, materials, services, facilities or works in comparison with those of a tenderer; 20
- (c) whether the private market for the goods, materials, services, facilities or works is a competitive market;
- (d) any savings to the distributor through contracting out;
- (e) the ability of the distributor to monitor a contract;
- (f) the long-term, as well as the short-term, effects of contracting out or of contracting with a particular tenderer, including possible future increases in costs relating to the particular contract or other contracts of that kind and the need to retain a capacity to meet emergencies; 25 30
- (g) any other matter the distributor considers relevant.

(3) The electricity distributor must record the reasons for its decision.

(4) This section does not apply to the provision of goods, materials, services, facilities or works: 35

- (a) in a case of emergency; or
- (b) if they are of a kind exempted from this section for the time being by order of the Minister published in the Gazette.

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RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) Schedule 8 has effect in relation to each such board.

(3) Schedule 9 has effect in relation to board meetings.

5           **Constitution of board of electricity distributor**

6N. (1) The board of directors of an electricity distributor is to consist of:

(a) persons from either or both of the following categories:

10           (i) persons elected as prescribed by the regulations;

(ii) persons having managerial, commercial, financial, legal or other qualifications appointed, as prescribed by the regulations, on the nomination of the councils of the areas specified in Schedule 7 in relation to the distributor; and

15           (b) persons appointed by the Minister in accordance with subsection (2).

(2) The Minister may, from time to time, appoint:

20           (a) up to 2 persons as directors on the boards of directors of Prospect Electricity, Shortland Electricity and Illawarra Electricity; and

(b) 1 person as a director on the board of directors of any other electricity distributor.

25           (3) The number of directors (being not fewer than 5 and not more than 13) elected or appointed under subsection (1) (a) is to be determined from time to time in respect of each electricity distributor by the Minister on the recommendation of the existing board (if any).

(4) The directors are to elect each year, from among themselves:

30           (a) a person to be Chairperson of the electricity distributor; and

(b) a person to be Deputy Chairperson of the distributor.



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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Constitution of board of electricity distributor**

6O. (1) The board of directors of an electricity distributor is to consist of: 5

(a) persons from either or both of the following categories:

- (i) persons elected as prescribed by the regulations;
- (ii) persons having managerial, commercial, financial, legal or other qualifications appointed, as prescribed by the regulations, on the nomination of the councils of the areas specified in Schedule 7 in relation to the distributor; and 10

(b) persons appointed by the Minister in accordance with subsection (2).

(2) The Minister may, from time to time, appoint: 15

(a) up to 2 persons as directors on the boards of directors of Prospect Electricity, Shortland Electricity and Illawarra Electricity; and

(b) 1 person as a director on the board of directors of any other electricity distributor. 20

(3) The number of directors (being not fewer than 5 and not more than 13) elected or appointed under subsection (1) (a) is to be determined from time to time in respect of each electricity distributor by the Minister on the recommendation of the existing board (if any). 25

(4) The directors are to elect each year, from among themselves:

(a) a person to be Chairperson of the electricity distributor; and

(b) a person to be Deputy Chairperson of the distributor. 30

(5) A director appointed by the Minister under this section is not eligible to be the Chairperson or Deputy Chairperson of the distributor.

**Division 5—General manager and staff**

**General manager** 35

6P. (1) There is to be a general manager of each electricity distributor.

*Electricity (Amendment) 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*****Division 6—Finance****Establishment of funds**

5       6Q. An electricity distributor is required to establish the following funds:

- (a) a fund to be known as the General Fund;
- (b) a fund to be known as the Trust Fund.

**General Fund**

10       6R. (1) There is to be paid into the General Fund:

- (a) all money received by or on account of the electricity distributor, other than money that is required to be paid into the Trust Fund; and
- 15       (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 the distributor or appropriated by Parliament for the purposes of the distributor; and
- 20       (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 General Fund:

- (a) the remuneration (including allowances) of the directors and staff of the electricity distributor; and
- 25       (b) all payments made on account of the distributor or otherwise required to meet expenditure incurred in relation to the functions of the distributor; and
- (c) all other payments required by or under this or any other Act to be paid from the General Fund.

**Trust Fund**

30       6S. (1) There is to be paid into the Trust Fund:

- (a) all money held by the electricity distributor by way of deposit for any person (including deposits paid to secure a supply of electricity); and
- 35       (b) all money held by the distributor 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.

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*
**General Fund**

- 6S. (1) There is to be paid into the General Fund:
- (a) all money received by or on account of the electricity distributor, other than money that is required to be paid into the Trust Fund; and 5
  - (b) all interest and other amounts received in respect of the investment of money belonging to the General Fund; and 10
  - (c) all money borrowed by or advanced to the distributor or appropriated by Parliament for the purposes of the distributor; and
  - (d) all money required to be paid into the General Fund by or under this or any other Act. 15
- (2) There may be paid from the General Fund:
- (a) the remuneration (including allowances) of the directors and staff of the electricity distributor; and
  - (b) all payments made on account of the distributor or otherwise required to meet expenditure incurred in relation to the functions of the distributor; and 20
  - (c) all other payments required by or under this or any other Act to be paid from the General Fund.

**Trust Fund**

- 6T. (1) There is to be paid into the Trust Fund: 25
- (a) all money held by the electricity distributor by way of deposit for any person (including deposits paid to secure a supply of electricity); and
  - (b) all money held by the distributor in the capacity of trustee; and 30
  - (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 Trust Fund:
- (a) repayments of deposits referred to in subsection (1) (a) and interest on any such deposits; and 35
  - (b) payments of money made in accordance with the trusts on which the money is held; and

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*
**Banking**

5 6V. All money received on account of the General Fund or the Trust Fund is to be paid into a bank or banks in New South Wales.

**Financial year**

10 6W. (1) The financial year of an electricity distributor 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.

**Division 7—Entry and inspection****Definition**

15 6X. In this Division, “authorised person” means a person authorised for the purposes of a provision of this Act by an electricity distributor.

**Authorised persons**

20 6Y. (1) An electricity distributor may authorise a person to exercise any function conferred or imposed under this Part.

(2) The electricity distributor must issue to an authorised person a certificate of authority in a form approved by the distributor.

25 (3) An authorised person exercising or proposing to exercise a function conferred or imposed under any provision of this Part 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**

30 6Z. Subject to this Act and the regulations, an authorised person may enter on any land or buildings at all reasonable hours for the purpose of carrying out any of the functions of an electricity distributor under this Act, including:

35 (a) installing, removing, maintaining, reading or adjusting any electricity property of the distributor, including metering equipment; or

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*
**Financial year**

6X. (1) The financial year of an electricity distributor is the year commencing on 1 July. 5

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

**Division 7—Entry and inspection****Definition** 10

6Y. In this Division, “**authorised person**” means a person authorised for the purposes of a provision of this Act by an electricity distributor.

**Authorised persons**

6Z. (1) An electricity distributor may authorise a person to exercise any function conferred or imposed under this Part. 15

(2) The electricity distributor must issue to an authorised person a certificate of authority in a form approved by the distributor.

(3) An authorised person exercising or proposing to exercise a function conferred or imposed under any provision of this Part on or in any land or building must, on request, produce the person’s certificate of authority to a person apparently in charge there. 20

**Power of entry** 25

7. Subject to this Act and the regulations, an authorised person may enter on any land or buildings at all reasonable hours for the purpose of carrying out any of the functions of an electricity distributor under this Act, including:

- (a) installing, removing, maintaining, reading or adjusting any electricity property of the distributor, including metering equipment; or 30
- (b) checking if the electricity distributor’s conditions relating to tariffs and to the use of electricity are being complied with. 35

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RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

5 (b) enters any land or building and notice of intention to enter as required by this Division was not served on the owner or occupier of the land or building,

the general manager 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 general manager or authorised person to be appropriate in the circumstances.

10 **Exercise of functions**

7C. In the exercise of a function conferred or imposed by this Division, an authorised person must:

- 15 (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**

20 7D. If an authorised person enters any land or building under this Division 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 the distributor on or in the land or building, the electricity distributor may recover the  
25 reasonable costs of the entry and inspection from the owner or occupier of the land or building.

**Compensation**

30 7E. (1) An electricity distributor must compensate all interested parties for any damage caused by it under this Division, 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.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

the general manager 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 general manager or authorised person to be appropriate in the circumstances. 5

**Exercise of functions**

7D. In the exercise of a function conferred or imposed by this Division, an authorised person must:

- (a) do as little damage as possible; and 10
- (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**

7E. If an authorised person enters any land or building under this Division 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 the distributor on or in the land or building, the electricity distributor may recover the reasonable costs of the entry and inspection from the owner or occupier of the land or building. 15  
20

**Compensation**

7F. (1) An electricity distributor must compensate all interested parties for any damage caused by it under this Division, other than damage arising from work done for the purpose of an inspection. 25

(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. 30

**Discontinuance of supply following refusal of access or obstruction**

7G. (1) If, after production of a written authority issued by the electricity distributor to an authorised person, any person: 35

- (a) refuses or fails to give the authorised person access at any reasonable time to any premises supplied with electricity by the distributor for the purpose of

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RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

5 (4) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in respect of works constructed under this Act.

**Special purpose companies**

7H. (1) In this section:

“special purpose company” means a company in which electricity distributors have a controlling interest.

10 (2) For the purpose of carrying on a joint enterprise in relation to any of their functions, two or more electricity distributors may, with the approval of the Minister, form or participate in the formation of a special purpose company.

15 (3) An electricity distributor may, with the approval of the Minister:

- (a) acquire interests in a special purpose company; or
- (b) sell or otherwise dispose of interests in a special purpose company.

20 (4) The Minister must not grant an approval under this section unless satisfied that any guidelines for the time being issued by the Premier relating to the formation and operation of subsidiary companies are complied with.

**Discontinuance of supply for failure to pay**

25 7I. (1) If a person fails to pay an amount to an electricity distributor for electricity supplied by it, the distributor 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 the distributor in discontinuing the supply, are paid.

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



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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(2) For the purpose of carrying on a joint enterprise in relation to any of their functions, two or more electricity distributors may, with the approval of the Minister, form or participate in the formation of a special purpose company. 5

(3) An electricity distributor may, with the approval of the Minister:

- (a) acquire interests in a special purpose company; or
- (b) sell or otherwise dispose of interests in a special purpose company. 10

(4) The Minister must not grant an approval under this section unless satisfied that any guidelines for the time being issued by the Premier relating to the formation and operation of subsidiary companies are complied with. 15

**Discontinuance of supply for failure to pay**

7J. (1) If a person fails to pay an amount to an electricity distributor for electricity supplied by it, the distributor 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 the distributor in discontinuing the supply, are paid. 20

(2) An electricity distributor is not liable for any loss or damage suffered by any person as a consequence of discontinuing a supply of electricity under this section. 25

**Power to break up roads etc.**

7K. (1) An electricity distributor may, on giving the notice or notices required by the regulations:

- (a) open and break up the soil and pavement of a public road or public reserve; and 30
- (b) open and break up any thing in or under a public road or public reserve; and
- (c) place structures on, over or beneath a public road or public reserve; and
- (d) erect an electric line or other thing relating to the distribution of electricity on, over or beneath a public road or public reserve, 35

for the purpose of exercising its functions.

*Electricity (Amendment) 1993*SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***Charges for placement of distributor's equipment**

5 7L. No annual or other periodic or special charge is payable by an electricity distributor to a local government council for or in respect of any pipe, wire, pole, cable or other structure or thing erected or placed by the distributor in the council's area or for or in respect of the space that it occupies.

10 **Altering position of conduit of another authority**

7M. (1) If:

- 15 (a) an electricity distributor, 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,

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

(2) A notice must:

- 20 (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 the electricity distributor to pay the reasonable cost of the alteration.

25 (3) If the alteration is not made as required by the notice, the electricity distributor 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.

30 (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**

35 7N. (1) If a person places a structure or other thing in or near a work of an electricity distributor in such a manner as to interfere with or damage the work, the distributor may:

- (a) demolish and remove the structure or other thing; and  
(b) repair the work; and

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(b) the alteration would not permanently damage the conduit or adversely affect its operation, the distributor may serve on the person a written notice that complies with subsection (2). 5

(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 10
- (c) include an undertaking by the electricity distributor to pay the reasonable cost of the alteration.

(3) If the alteration is not made as required by the notice, the electricity distributor 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. 15

(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** 20

7O. (1) If a person places a structure or other thing in or near a work of an electricity distributor in such a manner as to interfere with or damage the work, the distributor may:

- (a) demolish and remove the structure or other thing; and
- (b) repair the work; and 25
- (c) recover the cost of doing so as a debt owing to the distributor by the person who placed the structure or other thing there.

(2) An electricity distributor may apply for an injunction to prevent a structure or other thing being placed as referred to in this section. 30

**Distributor’s fittings not to be taken in execution**

7P. (1) If any electric line, meter, fitting, insulator, apparatus or work of an electricity distributor is placed in or on any place or building (not being in the possession of the distributor) for the purpose of supplying electricity, it is not to be taken in execution under any process of a court of law or equity. 35

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Trading names**

5 7T. An electricity distributor may, with the approval of the  
Minister, adopt a trading name.

**Seal of distributor**

7U. The seal of an electricity distributor is to be kept by  
the general manager and may be affixed to a document only:

- 10 (a) in the presence of the Chairperson (or a person  
authorised for that purpose by the Chairperson) and the  
general manager (or a person authorised for that  
purpose by the general manager); and
- 15 (b) with an attestation by the signature of the general  
manager or that authorised person of the fact of the  
affixing of the seal.

**Service of documents on electricity distributor**

7V. (1) A document may be served on an electricity  
distributor by leaving it at, or by sending it by post to:

- 20 (a) the office of the distributor; 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 an electricity distributor in any  
other manner.

25 **Recovery of charges etc. by electricity distributor**

7W. Any charge, fee or money due to an electricity  
distributor may be recovered by the distributor as a debt in a  
court of competent jurisdiction.

30 **Minister may direct transfer of assets etc. of electricity  
distributor**

35 7X. (1) The Minister may, by order in writing, direct that  
any asset, right or liability of an electricity distributor whose  
distribution district is changed by regulation under section  
6A (“**the transferor distributor**”) be transferred to another  
electricity distributor (“**the transferee distributor**”).

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Service of documents on electricity distributor**

7W. (1) A document may be served on an electricity distributor by leaving it at, or by sending it by post to: 5

- (a) the office of the distributor; 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 an electricity distributor in any other manner. 10

**Recovery of charges etc. by electricity distributor**

7X. Any charge, fee or money due to an electricity distributor may be recovered by the distributor as a debt in a court of competent jurisdiction. 15

**Minister may direct transfer of assets etc. of electricity distributor**

7Y. (1) The Minister may, by order in writing, direct that any asset, right or liability of an electricity distributor whose distribution district is changed by regulation under section 6A (“the transferor distributor”) be transferred to another electricity distributor (“the transferee distributor”). 20

(2) When any such asset, right or liability is transferred by an order under this section, the following provisions have effect (subject to the order directing the transfer): 25

- (a) any asset of the transferor distributor specified in the order vests in the transferee distributor by force of this section and without the need for any conveyance, transfer, assignment or assurance;
- (b) any right or liability of the transferor distributor specified in the order becomes by force of this section a right or liability of the transferee distributor; 30
- (c) all proceedings relating to the asset, right or liability commenced before the transfer by or against the transferor distributor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee distributor; 35

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(4) The operation of this section is not to be regarded as an event of default under any contract or other instrument.

5 (5) No attornment to the transferee distributor by a lessee from the transferor distributor is required.

(6) Any instrument executed only for:

(a) a purpose ancillary to or consequential on the operation of this section; or

10 (b) the purpose of giving effect to this section, is not chargeable with stamp duty.

**Dissolution of county councils**

7Y. (1) The Governor may, by proclamation published in the Gazette:

15 (a) dissolve a county council that has electricity functions; or

(b) declare that, as from the date of its publication (or from a later date specified in the proclamation) a county council or local government council has no authority to exercise electricity functions.

20 (2) A proclamation made in accordance with subsection (1) (b) does not preclude the affected county council or local government council from exercising electricity functions in accordance with a contract entered into with its corresponding electricity distributor (as defined in Schedule 11), but otherwise has effect in accordance with its tenor.

(3) In this section, “**electricity functions**” means the generation, transmission, distribution, reticulation or supply of electricity.

30 (4) **Parts 2B (Electricity Councils) and 2C (Subsidiaries of Electricity Councils):**

Omit the Parts.

(5) **Sections 11 (Corporation to formulate proposals relating to electricity), 12 (Constitution of county districts):**

35 Omit the sections.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

- (b) declare that, as from the date of its publication (or from a later date specified in the proclamation) a county council or local government council has no authority to exercise electricity functions. 5
- (2) A proclamation made in accordance with subsection (1) (b) does not preclude the affected county council or local government council from exercising electricity functions in accordance with a contract entered into with its corresponding electricity distributor (as defined in Schedule 11), but otherwise has effect in accordance with its tenor. 10
- (3) In this section, “**electricity functions**” means the generation, transmission, distribution, reticulation or supply of electricity. 15
- (4) **Parts 2B (Electricity Councils) and 2C (Subsidiaries of Electricity Councils):**  
Omit the Parts.
- (5) **Sections 11 (Corporation to formulate proposals relating to electricity), 12 (Constitution of county districts):** 20  
Omit the sections.
- (6) **Section 13A (Corporation may direct supply authority as to charges for and terms of supply):**  
Omit section 13A (4).
- (7) **Section 14 (Corporation may fix charges for bulk electricity etc.):** 25
- (a) From section 14 (1) and (2), omit “electricity councils” wherever occurring, insert instead “electricity distributors or Sydney Electricity”.
- (b) From section 14 (3), omit “An electricity council”, insert instead “An electricity distributor or Sydney Electricity”. 30
- (c) From section 14 (4), omit “An electricity council which contravenes this section”, insert instead “If an electricity distributor or Sydney Electricity contravenes this section, it”.
- (8) **Section 14AAE (Application of Part to subsidiaries of electricity distributors):** 35  
Omit “section 7W”, insert instead “section 7I”.

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(c) After section 15 (2), insert:

5           (2A) An electricity distributor or Sydney Electricity may  
 with the approval of the Minister (and is required to, if the  
 Minister on the recommendation of the Corporation so  
 directs), in accordance with any conditions imposed by the  
 Minister, contribute to the Fund by way of loan to the  
 10           Corporation for the purposes of the Fund. The Corporation  
 may apply any such contributions for those purposes in  
 accordance with those conditions.

(12) Section 16 (**Application of Electricity Development Fund**):

- 15           (a) From section 16 (1) (a), omit “electricity councils” wherever  
 occurring, insert instead “electricity distributors or Sydney  
 Electricity”.
- (b) From section 16 (1) (a) (ii), omit “a council”, insert instead  
 “any of them”.
- (c) Omit section 16 (1) (b), insert instead:
- 20           (b) amounts to electricity distributors or Sydney Electricity  
 in accordance with section 15 (2A);
- (d) From section 16 (1) (c), omit “electricity councils”, insert  
 instead “electricity distributors, Sydney Electricity”.
- (e) From section 16 (2), omit “electricity council”, insert instead  
 “electricity distributor or Sydney Electricity”.

25           (13) Section 18 (**Agreements as to grants, subsidies etc.**):

Omit “electricity council” wherever occurring, insert instead  
 “electricity distributor or Sydney Electricity”.

(14) Section 19AB (**Contributions by electricity distributors,  
 Sydney Electricity and Commission**):

30           From section 19AB (1), omit “Electricity councils”, insert  
 instead “An electricity distributor, Sydney Electricity”.

(15) Section 19A (**Definitions**):

Omit the definition of “Council”.



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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (13) Section 18 (**Agreements as to grants, subsidies etc.**):  
Omit “electricity council” wherever occurring, insert instead  
“electricity distributor or Sydney Electricity”. 5
- (14) Section 19AB (**Contributions by electricity distributors,  
Sydney Electricity and Commission**):  
From section 19AB (1), omit “Electricity councils”, insert  
instead “An electricity distributor, Sydney Electricity”.
- (15) Section 19A (**Definitions**): 10  
Omit the definition of “Council”.
- (16) Section 19G (**Director may direct electricity distributor to  
remove structure**):  
(a) From section 19G (1), omit “a council”, insert instead “an  
electricity distributor or Sydney Electricity”. 15  
(b) From section 19G (1), omit “the council” where firstly  
occurring, insert instead “the distributor or Sydney  
Electricity”.  
(c) From section 19G (1), omit “the area of the council”, insert  
instead “its distribution district”. 20  
(d) From section 19G (2), omit “A council”, insert instead “An  
electricity distributor or Sydney Electricity”.
- (17) Section 25 (**Power of entry**):  
(a) From section 25 (1), omit “electricity council”, insert instead  
“electricity distributor or Sydney Electricity”. 25  
(b) From section 25 (4), omit “electricity supply authority”,  
insert instead “electricity distributor or Sydney Electricity”.
- (18) Part 5A:  
After Part 5, insert:  
**PART 5A—CONDITIONS OF ELECTRICITY  
SUPPLY** 30
- Definitions**  
26A. In this Part:  
“**capacity increase**” means increase in the capacity of an  
electricity distributor’s electricity distribution system 35  
(whether by extension or amplification of mains or  
otherwise);

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RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

5           “**customer’s installation**” means all the customer’s electric wires, cables, appliances, fittings and insulated apparatus installed and used for, or for purposes incidental to, the conveyance, measurement, control or use of electricity supplied or intended to be supplied by an electricity distributor but does not include:

10           (a) any electricity supply main or service line, meter or apparatus that is the property of the distributor and is used solely for the conveyance, measurement or control of electricity supplied to any premises; or

15           (b) any movable electrical equipment;

          “**general conditions of supply**” means the general conditions of supply in force for the time being under this Part;

20           “**metering equipment**” means instruments and equipment used to measure the quantity of or the demand for electricity supplied to a customer by an electricity distributor, and includes equipment such as time switches, relays, contactors and the like used to control that supply;

25           “**point of connection**” means the point at which an electricity distributor’s street mains or works are attached to the customer’s installation;

          “**service equipment**” means equipment supplied and installed as provided by this Part;

30           “**service line**” means an overhead or underground cable operating at a voltage not exceeding 650 volts and located between an electricity distributor’s street mains or works and a customer’s point of connection.

**Entitlement to supply by electricity distributor**

35           26B. (1) A person who applies to an electricity distributor is entitled to be provided with electricity supply or capacity increase if the person either meets the cost of connection to supply or makes a contribution to that cost in accordance with guidelines issued from time to time by the Energy Corporation in consultation with the Government Pricing Tribunal.

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(2) Any person aggrieved by the amount of any cost or contribution payable under subsection (1) may appeal in accordance with the regulations. 5

(3) The regulations may make provision for or with respect to:

(a) what appeals under subsection (2) may be refused on the face of the appeal; and

(b) the referral of the appeal to an arbitrator, whose decision is to be final and binding on the appellant and the distributor concerned; and 10

(c) the application by any such arbitrator of principles determined by the Minister with respect to capital costs and contributions; and 15

(d) the costs of arbitration and the necessity of its availability to persons of poor means.

(4) A person's entitlement under this section to a supply of electricity is subject to any right of the electricity distributor under this Act or the regulations to refuse, suspend or discontinue supply to the person. 20

**Formulation of general conditions of supply**

26C. (1) An electricity distributor must formulate general conditions of supply that make provision for or with respect to the conditions applicable to the supply of electricity by the distributor, and may amend those conditions (by substituting, varying, revoking or adding to them) from time to time. 25

(2) The matters for which the general conditions of supply must make provision include the following:

(a) the charges for electricity supplied and the payment of those charges; 30

(b) the payments to be made by a customer for any installation work done or to be done by the distributor on a customer's premises or incidental to the provision of a supply of electricity to the customer; 35

(c) the proper care and custody of any metering or other equipment installed by the distributor;

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- 5 (c) the proper care and custody of any metering or other equipment installed by the distributor;
- (d) such other matters as may be provided for, under this Part, in the general conditions of supply;
- (e) installation and servicing requirements.

10 (3) The general conditions of supply (and any amendment of them) are to be publicly notified by notification published in a newspaper circulating generally in the region of the electricity distributor and take effect on publication of the notification or on such later date as may be specified in the notification.

15 (4) The provisions of the general conditions of supply must not be inconsistent with the provisions of this Act.

(5) An electricity distributor is to ensure that a copy of the general conditions of supply is available for inspection by any person free of charge at each office of the distributor during ordinary office hours.

20 **Conditions applicable to supply of electricity**

25 26D. (1) A person who applies for or receives supply of electricity from an electricity distributor is to be considered to have entered into an agreement with the distributor containing the provisions of the general conditions of supply as in force from time to time.

(2) Subsection (1) applies to a person even if supply to the person commenced before the commencement of this Part.

30 (3) An electricity distributor may require a person who applies for supply of electricity to enter into an agreement (an “**alternative agreement**”) with the distributor that makes provision for or with respect to any of the matters for which the general conditions of supply may make provision.

35 (4) A person who enters into an alternative agreement with an electricity distributor is not subject to the general conditions of supply except to the extent that the alternative agreement otherwise provides.

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*
**Requirement for security**

26E. (1) An electricity distributor may require a customer to give security for payment of all sums due to it or that may become due to it from the customer. 5

(2) The general conditions of supply may make provision with respect to such security.

**Metering equipment**

26F. (1) An electricity distributor may require the installation of such metering equipment as it thinks necessary for ascertaining the quantity of or demand for electricity supplied to a customer. 10

(2) For that purpose the electricity distributor may do any of the following: 15

(a) supply and install, or arrange for the supply and installation of, metering equipment;

(b) require the customer to supply and install metering equipment;

(c) require the customer to make provision for the supply, mounting and installation of metering equipment. 20

(3) An electricity distributor may require the customer to pay the whole or any part of the cost of the supply and installation of metering equipment.

(4) The position and standards of installation of metering equipment are to be as determined by the electricity distributor. 25

**Service equipment**

26G. (1) An electricity distributor may require the installation of such equipment (“**service equipment**”) as it thinks necessary for or reasonably incidental to the provision of a supply of electricity to a customer. 30

(2) For that purpose the electricity distributor may do any of the following:

(a) supply and install, or arrange for the supply and installation of, service equipment; 35

(b) require the customer to supply and install service equipment;

*Electricity (Amendment) 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) For that purpose the electricity distributor may do any of the following:

- 5 (a) supply and install, or arrange for the supply and installation of, service equipment;
- (b) require the customer to supply and install service equipment;
- 10 (c) require the customer to make provision for the supply, mounting and installation of service equipment.

(3) An electricity distributor may require the customer to pay the whole or any part of the cost of the supply and installation of service equipment.

15 (4) The position and standards of installation of service equipment are to be as determined by the electricity distributor.

**Sealing of equipment**

20 26H. An electricity distributor may affix seals to a customer's installation if of the opinion it is necessary or desirable to do so.

**Estimation of electricity supplied but not properly registered**

26I. (1) This section applies in the following cases:

- 25 (a) an electricity distributor finds that metering equipment has ceased to register or has ceased to register correctly the quantity of or demand for electricity supplied;
- (b) an electricity distributor finds that electricity has been supplied without passing through metering equipment;
- 30 (c) an electricity distributor finds that metering equipment registering supply is no longer of the appropriate rating to register the quantity of or demand for electricity supplied;
- (d) a person is convicted of an offence under section 30.

35 (2) The electricity distributor may estimate the quantity of or demand for electricity supplied but not registered:

- (a) in a case referred to in subsection (1) (a), (b) or (c), for any period of up to 6 months before the finding was made; or

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (2) For that purpose the electricity distributor may do any of the following:
- (a) supply and install, or arrange for the supply and installation of, a service line; 5
  - (b) require the customer to supply and install a service line;
  - (c) require the customer to make such provision as the distributor decides is necessary for the attachment of any service line. 10
- (3) An electricity distributor may require the customer to pay the whole or any part of the cost of the supply and installation of a service line.
- (4) The type, construction and route of a service line and the point of connection are to be as determined by the electricity distributor. 15
- (5) An electricity distributor may require a customer to be provided with more than one point of connection if the distributor thinks it necessary to avoid interference with the supply of electricity to any other customer. 20
- Imposition of requirements as to installation and use of apparatus etc.**
- 26K. (1) An electricity distributor may:
- (a) impose such requirements as to the installation and use of electrical appliances and equipment by the customer as the distributor thinks necessary or desirable to prevent or minimise adverse effects on the supply to other customers; and 25
  - (b) impose requirements relating to loading of and the balancing of the load over the phases of the customer's supply; and 30
  - (c) impose requirements relating to the location and accessibility of metering and service equipment relating to supply to the customer; and 35
  - (d) impose requirements as to the minimum rupture rating or minimum breaking capacity of the customer's main protective devices; and

*Electricity (Amendment) 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*****Imposition of requirements as to installation and use of apparatus etc.**

- 5           26K. (1) An electricity distributor may:
- (a) impose such requirements as to the installation and use  
          of electrical appliances and equipment by the customer  
          as the distributor thinks necessary or desirable to  
10           prevent or minimise adverse effects on the supply to  
          other customers; and
- (b) impose requirements relating to loading of and the  
          balancing of the load over the phases of the customer's  
          supply; and
- 15           (c) impose requirements relating to the location and  
          accessibility of metering and service equipment  
          relating to supply to the customer; and
- (d) impose requirements as to the minimum rupture rating  
          or minimum breaking capacity of the customer's main  
          protective devices; and
- 20           (e) require the customer to install relays, current  
          transformers and other protective equipment having  
          characteristics to suit the distributor's protective  
          system.
- (2) A customer must comply with any requirement  
25           imposed on the customer under this section.
- (3) The general conditions of supply may make provision  
          for or with respect to any of the matters referred to in  
          subsection (1).

**Unauthorised connections**

- 30           26L. (1) A person must not without the permission of the  
          electricity distributor:
- (a) connect a customer's installation to an electricity  
          distributor's mains; or
- 35           (b) connect an addition or alteration to a customer's  
          installation so as to cause the supply of electricity to  
          the installation or any part of it to be incorrectly  
          metered.



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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**Recovery of costs of increasing capacity of system**

26N. (1) An electricity distributor may require a person who applies for supply of electricity or for an increase in supply of electricity to pay or agree to pay the whole of a specified part of the reasonable costs incurred or to be incurred by the distributor in capacity increase, being capacity increase: 5

- (a) that has been or will be necessary to supply electricity or increase the supply of electricity to the customer; or 10
- (b) that took place in the 6 years prior to the customer's connection to supply or application for an increase in supply and would have been necessary to supply electricity or to increase the supply of electricity to the customer. 15

(2) An electricity distributor must not require payments from 2 or more persons under this section in respect of any particular capacity increase that in total exceed the reasonable costs incurred or to be incurred by the distributor in respect of the capacity increase. 20

(3) An electricity distributor may, in the prescribed circumstances, refund any payment made in accordance with this section.

(4) An electricity distributor may enter into agreements for the purposes of this section. 25

**Interruption to supply for maintenance etc.**

26O. An electricity distributor is entitled to interrupt the supply of electricity to a customer at such reasonable times as the distributor may decide for the purpose of inspecting, testing or carrying out repairs or maintenance work on the electricity distribution system or for such other purpose as the distributor considers necessary for the efficient operation of that system. 30

**Liability for failure to supply 35**

26P. An electricity distributor is not liable for any loss suffered by any person as a consequence of any failure to supply electricity, or of any defect in that supply, if the failure or defect is caused by the breakdown of machinery or by causes not within the distributor's control. 40

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RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

5 (2) An electricity distributor must not require payments from 2 or more persons under this section in respect of any particular capacity increase that in total exceed the reasonable costs incurred or to be incurred by the distributor in respect of the capacity increase.

10 (3) An electricity distributor may, in the prescribed circumstances, refund any payment made in accordance with this section.

(4) An electricity distributor may enter into agreements for the purposes of this section.

**Interruption to supply for maintenance etc.**

15 26O. An electricity distributor is entitled to interrupt the supply of electricity to a customer at such reasonable times as the distributor may decide for the purpose of inspecting, testing or carrying out repairs or maintenance work on the electricity distribution system or for such other purpose as the distributor considers necessary for the safe and efficient  
20 operation of that system.

**Liability for failure to supply**

25 26P. An electricity distributor is not liable for any loss suffered by any person as a consequence of any failure to supply electricity, or of any defect in that supply, if the failure or defect is caused by the breakdown of machinery or equipment or by causes not within the distributor's control.

**Customer to give 48 hours' notice of discontinuance of supply**

30 26Q. (1) A customer must give the electricity distributor not less than 48 hours' notice of the customer's desire that the supply of electricity to the customer be discontinued.

35 (2) If that notice is not given, the customer remains liable for all charges (including minimum charges) in respect of the supply concerned until 48 hours after the electricity distributor becomes aware of the customer's desire that supply be discontinued or until the distributor discontinues or transfers that supply, whichever happens first.

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (19) Section 27 (**Restrictions on supply of electricity**):  
Omit section 27 (1).
- (20) Section 27AA (**Restrictions on certain works**): 5  
 (a) In section 27AA (1), after “line”, insert “or any reticulation system”.  
 (b) Omit section 27AA (2), insert instead:  
 (2) This section:  
 (a) does not apply to the Electricity Commission; and 10  
 (b) in respect of transmission lines, does not apply to an electricity distributor or Sydney Electricity; and  
 (c) in respect of reticulation systems, does not apply to an electricity distributor or Sydney Electricity.
- (21) Section 27AB (**Approvals**): 15  
 (a) From section 27AB (a), omit “valid; and”, insert instead “valid”.  
 (b) Omit section 27AB (b).
- (22) Section 27AC (**Offences**):  
 (a) From section 27AC (2), omit “a council”, insert instead “an electricity distributor or Sydney Electricity” 20  
 (b) From section 27AC (2), omit “with the permission of the relevant council and”.  
 (c) Omit section 27AC (3).
- (23) Section 28A (**Electricity supply authorities—personal liability of members etc.**): 25  
 Omit the section.
- (24) Section 37 (**Regulations**):  
 (a) From section 37 (2) (a1), (a2), (ee), (ff) and (gg), omit “electricity councils” wherever occurring, insert instead “electricity distributors” 30  
 (b) From section 37 (2) (b1), omit “and assistant general managers of county councils that are electricity councils”, insert instead “of electricity distributors”.  
 (c) From section 37 (2) (hh), omit “and” where lastly occurring. 35

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (b) Omit section 27AA (2), insert instead:
- (2) This section:
- 5 (a) does not apply to the Electricity Commission; and  
 (b) in respect of transmission lines, does not apply to an electricity distributor or Sydney Electricity; and  
 (c) in respect of reticulation systems, does not apply to an electricity distributor or Sydney Electricity.
- 10 (21) Section 27AB (**Approvals**):
- (a) From section 27AB (a), omit “valid; and”, insert instead “valid.”.
- (b) Omit section 27AB (b).
- (22) Section 27AC (**Offences**):
- 15 (a) From section 27AC (2), omit “a council”, insert instead “an electricity distributor or Sydney Electricity”.
- (b) From section 27AC (2), omit “with the permission of the relevant council and”.
- (c) Omit section 27AC (3).
- 20 (23) Section 28A (**Electricity supply authorities—personal liability of members etc.**):
- Omit the section.
- (24) Section 37 (**Regulations**):
- 25 (a) From section 37 (2) (a1), (a2), (ee), (ff) and (gg), omit “electricity councils” wherever occurring, insert instead “electricity distributors”.
- (b) From section 37 (2) (b1), omit “and assistant general managers of county councils that are electricity councils”, insert instead “of electricity distributors”.
- 30 (c) From section 37 (2) (hh), omit “and” where lastly occurring.
- (d) After section 37 (2) (ii), insert:
- 35 (jj) capital contributions to be made by customers to electricity distributors or Sydney Electricity in respect of works and connections, and the resolution, by arbitration or otherwise, of disputes arising in relation to such contributions;

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***
**(25) Section 39:**

After section 38, insert:

**Savings, transitional and other provisions** 5  
39. Schedule 11 has effect.

**(26) Schedules 7–11:**

Omit Schedule 7, insert instead:

**SCHEDULE 7—ELECTRICITY DISTRIBUTORS**  
(Sec. 6) 10

Central West Electricity  
Cabonne Shire (part)  
Cowra Shire  
Forbes Shire  
Lachlan Shire 15  
Parkes Shire  
Weddin Shire

Illawarra Electricity  
Bega Valley Shire  
Eurobodalla Shire 20  
Kiama Municipality  
Shellharbour Municipality  
Shoalhaven City  
Wingecarribee Shire  
Wollongong City 25

Monaro Electricity  
Bombala Shire  
Cooma-Monaro Shire  
Snowy River Shire

Murray River Electricity 30  
Albury City

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(26) Schedules 7–11:

Omit Schedule 7, insert instead:

5	<b>SCHEDULE 7—ELECTRICITY DISTRIBUTORS</b>	(Sec. 6)
	Central West Electricity	
	Cabonne Shire (part)	
	Cowra Shire	
10	Forbes Shire	
	Lachlan Shire	
	Parkes Shire	
	Weddin Shire	
	Illawarra Electricity	
15	Bega Valley Shire	
	Eurobodalla Shire	
	Kiama Municipality	
	Shellharbour Municipality	
	Shoalhaven City	
20	Wingecarribee Shire	
	Wollongong City	
	Monaro Electricity	
	Bombala Shire	
	Cooma-Monaro Shire	
25	Snowy River Shire	
	Murray River Electricity	
	Albury City	
	Balranald Shire	
	Berrigan Shire	
30	Conargo Shire	
	Corowa Shire	

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

Deniliquin Municipality	
Hume Shire	
Jerilderie Shire	5
Murray Shire	
Wakool Shire	
Wentworth Shire	
Windouran Shire	
Murrumbidgee Electricity	10
Carrathool Shire	
Griffith City	
Hay Shire	
Leeton Shire	
Murrumbidgee Shire	15
Narrandera Shire (part)	
Namoi Valley Electricity	
Brewarrina Shire	
Bourke Shire	
Gunnedah Shire	20
Narrabri Shire	
Unincorporated area (part)	
Walgett Shire	
New England Electricity	
Armidale City	25
Dumaresq Shire	
Uralla Shire (part)	
Walcha Shire	
North West Electricity	
Bingara Shire	30
Glen Innes Municipality	

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

	Guyra Shire
	Inverell Shire
5	Moree Plains Shire
	Severn Shire
	Uralla Shire (part)
	Yallaroi Shire
	 Northern Riverina Electricity
10	Bland Shire
	Coolamon Shire
	Cootamundra Shire
	Junee Shire
	Narrandera Shire (part)
15	Temora Shire
	 Northern Rivers Electricity
	Ballina Shire
	Bellingen Shire
	Byron Shire
20	Casino Municipality
	Coffs Harbour City
	Copmanhurst Shire
	Grafton City
	Kyogle Shire
25	Lismore City
	Maclean Shire
	Nambucca Shire
	Nymboida Shire
	Richmond River Shire
30	Tweed Shire
	Ulmarra Shire



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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

Ophir Electricity	
Blayney Shire	
Cabonne Shire (part)	5
Orange City	
Oxley Electricity	
Great Lakes Shire (part)	
Greater Taree City	
Hastings Municipality	10
Kempsey Shire	
P-CCC Electricity	
Barraba Shire	
Manilla Shire	
Murrurundi Shire	15
Nundle Shire	
Parry Shire	
Quirindi Shire	
Tamworth City	
Prospect Electricity	20
Baulkham Hills Shire	
Blacktown City	
Blue Mountains City	
Camden Municipality	
Campbelltown City	25
Fairfield City	
Greater Lithgow City	
Hawkesbury City	
Holroyd City	
Liverpool City	30
Parramatta City	
Penrith City	

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

	Rylstone Shire
	Wollondilly Shire
5	Shortland Electricity
	Cessnock City
	Dungog Shire
	Gloucester Shire
	Great Lakes Shire (part)
10	Lake Macquarie City
	Maitland City
	Merriwa Shire (part)
	Muswellbrook Shire
	Newcastle City
15	Port Stephens Shire
	Scone Shire
	Singleton Shire
	South West Slopes Electricity
	Boorowa Shire
20	Harden Shire
	Young Shire
	Southern Mitchell Electricity
	Bathurst City
	Evans Shire
25	Mudgee Shire (part)
	Oberon Shire
	Southern Riverina Electricity
	Culcairn Shire
	Holbrook Shire
30	Lockhart Shire
	Urana Shire
	Wagga Wagga City

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

Southern Tablelands Electricity	
Crookwell Shire	
Goulburn City	5
Gunning Shire	
Mulwaree Shire	
Queanbeyan City	
Tallaganda Shire	
Yarrowlumla Shire	10
Yass Shire	
Tumut River Electricity	
Gundagai Shire	
Tumbarumba Shire	
Tumut Shire	15
Ulan Electricity	
Coolah Shire	
Coonabarabran Shire	
Merriwa Shire (part)	
Mudgee Shire (part)	20
Western Power	
Bogan Shire	
Cobar Shire	
Coonamble Shire	
Dubbo City	25
Gilgandra Shire	
Narromine Shire	
Warren Shire	
Wellington Shire	

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

**SCHEDULE 8—BOARDS OF DIRECTORS**

(Sec. 6M)

5

**Definitions**

1. In this Schedule:

“**appointed director**” means a member of the board of an electricity distributor appointed by the Minister under section 6N;

10

“**elected director**” means a member of the board of an electricity distributor elected or appointed under section 6N as prescribed by the regulations.

**Chairperson of electricity distributor**

15

2. (1) The board of directors of an electricity distributor may, with the approval of the Minister, remove a director from the office of Chairperson or Deputy Chairperson of the distributor at any time.

20

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

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

25

(3) The Chairperson’s or Deputy Chairperson’s term of office is 12 months, after which time he or she (if otherwise qualified) is eligible for re-election.

**Terms of office of directors**

30

3. (1) Subject to this Schedule, an elected director holds office until the director’s successor is elected or appointed.

(2) Subject to this Schedule, an appointed director holds office for such period (not exceeding 3 years) as may be specified in the instrument of appointment of the director.

**Remuneration**

35

4. A director of an electricity distributor:

- (a) is entitled to be paid such remuneration as the Minister may from time to time determine in respect of the director; and

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

- (b) is entitled to be paid such travelling and subsistence allowances as the board may from time to time determine in respect of the director. 5
- Vacancy in office of directors**
5. (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 10
  - (c) resigns the office by instrument in writing addressed to the Minister; or
  - (d) is removed from office under this Act; or
  - (e) is absent from 4 consecutive meetings of the board of which reasonable notice has been given to the director personally or in the ordinary course of post, except on leave granted by the board or unless, before the expiration of 4 weeks after the last of those meetings, the director is excused by the board for having been absent from those meetings; or 15
  - (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 20
  - (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 30
  - (i) in the case of an elected director, ceases to hold the qualifications necessary for election or appointment to the position. 35
- (2) The Minister may remove an elected or appointed director from office for incapacity, incompetence or misbehaviour.

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*
**Disclosure of pecuniary interests**

6. (1) If:

- 5 (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 board of directors; and
- 10 (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 board.

15 (2) A disclosure by a director at a meeting of the board 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
- 20 (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).

25

(3) Particulars of any disclosure made under this clause are to be recorded by the board 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 board.

30

(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:

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

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(5) For the purpose 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: 5

(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. 10

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

(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 the distributor) if the goods or services are, or are to be, available to members of the public on the same terms and conditions. 15

**Filling of vacancy in office of director**

7. (1) If the office of an elected director becomes vacant: 20

(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 elected director; or 25

(b) at any other time—the vacancy is to be filled as soon as practicable (but, in any event, within 3 months) at an election, or by appointment, in accordance with regulations made for the purposes of section 6N (1) (a). 30

(2) The Minister may appoint a person who is qualified for appointment 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. 35

**Dismissal of board**

8. (1) The Minister may, in circumstances prescribed by the regulations, dismiss an entire board from office.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

- (2) Regulations made for the purposes of this clause:
- (a) may make provision for or with respect to a public inquiry into the affairs of the board; and
- (b) may make provision for the appointment, functions and dismissal of an administrator; and
- (c) must make provision for the election or appointment of a new board within 12 months of the board's dismissal.

**Effect of certain other Acts**

9. (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 9—BOARD MEETINGS**

(Sec. 6M)

**General procedure**

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

**Quorum**

2. The quorum for a meeting of the board is the number of directors prescribed by the regulations.



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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***
**Presiding member**

3. (1) The Chairperson of an electricity distributor or, in the absence of the Chairperson, the Deputy Chairperson, is to preside at a meeting of the board. 5

(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 board.

(3) The person presiding at any meeting of the board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote. 10

**Voting**

4. A decision supported by a majority of the votes cast at a meeting of the board at which a quorum is present is the decision of the board. 15

**Transaction of business outside meetings or by telephone etc.**

5. (1) The board may, if it thinks fit, transact any of its business by the circulation of papers among all the directors 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 board. 20

(2) The board may, if it thinks fit, transact any of its 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. 25

(3) For the purposes of:

- (a) the approval of a resolution under subclause (1); or 30  
(b) a meeting held in accordance with subclause (2),

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

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the board. 35

(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.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***
**Attendance of general manager at meetings**

5           6. (1) The general manager of an electricity distributor has the right to attend meetings of the board and to take part in discussions at those meetings as if the general manager were a director, but is not entitled to vote on any question which is to be decided by a vote of the directors.

10           (2) A general manager is not entitled to be present at any meeting of the board during any discussion which concerns the appointment, dismissal, salary or conditions of employment of the general manager.

            (3) A general manager is to:

- 15           (a) attend any meeting of the board at which the general manager is required by the board to attend; and
- 20           (b) give to the board any advice and assistance reasonably required by the board, and for the purpose is to arrange for the attendance at such a meeting of such employees of the electricity distributor as may be necessary, having regard to the business to be transacted at the meeting.

**First meeting**

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

25                           **SCHEDULE 10—STAFF OF ELECTRICITY  
                                  DISTRIBUTORS**

(Sec. 6P)

**PART 1—STAFF GENERALLY****Appointment, salary, conditions etc. of staff**

30           1. (1) An electricity distributor may employ such staff as it requires to exercise its functions.

            (2) An electricity distributor 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.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***
**Regulations relating to staff**

2. (1) The regulations may make provision for or with respect to the employment of the staff of an electricity distributor, including the conditions of employment and the discipline of any such staff. 5

(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 the electricity distributor is a party; and 10

(b) have effect despite any determination of the distributor.

**Use of staff or facilities of departments etc. 15**

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

**Consultants**

4. An electricity distributor may engage such consultants as it requires to exercise its functions.

**PART 2—ORGANISATION STRUCTURE****Determination of structure 25**

5. (1) An electricity distributor must determine:

- (a) an organisation structure; and
- (b) those positions within the organisation structure that are senior staff positions (including senior management staff positions); and 30
- (c) the resources to be allocated towards the employment of staff.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

5 (2) An electricity distributor may not determine a position to be a senior staff position if the remuneration for the position is less than:

10 (a) the commencing rate of pay for the classification of Executive Support Officer in the County Councils (Electricity Undertakings) Classification and Rates of Pay (State) Award as in force at the commencement of this clause; or

(b) such other amount as may be prescribed by the regulations.

**Re-determination of structure**

15 6. The organisation structure may be re-determined by the distributor from time to time.

**PART 3—THE GENERAL MANAGER AND SENIOR STAFF****General manager of an electricity distributor**

20 7. (1) The Governor may, on the recommendation of the Minister and the nomination of the board of directors of an electricity distributor, appoint a person so recommended and nominated to be the general manager of the distributor.

25 (2) The general manager of an electricity distributor is taken, while holding that office, to be employed by the distributor. However, the distributor may not remove the general manager from office.

(3) A person is not to be nominated by an electricity distributor for appointment as the general manager unless:

30 (a) the position has been advertised and the proposed appointment notified as required by the regulations (if any); and

(b) the person has suitable executive, technical and administrative experience and qualifications; and

35 (c) the person is the most meritorious applicant for the position.

(4) If a vacancy occurs in the position of general manager of the electricity distributor, a person must, in accordance with this clause, immediately be appointed to or to act in the vacant position.

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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(5) The board may appoint a person to act, for a period of not more than 6 months at any one time, in the office of general manager during the illness or absence of the general manager (or during a vacancy in the office of general manager) and the person, while so acting, has all the functions of the general manager and is taken to be the general manager. 5

(6) The Governor may, at any time, remove a person from office as general manager on the recommendation of the Minister and at the request of the board. 10

(7) The board may, at any time, remove a person from office as acting general manager.

(8) A director of the board is not to be appointed as general manager or acting general manager. 15

**Distributor to be consulted as to appointment and dismissal of senior management staff**

8. The general manager of an electricity distributor may appoint or dismiss senior management staff only after consultation with the board of directors of the distributor. 20

**Terms of employment for senior staff**

9. Subject to this Act, the appointment and terms of employment of senior staff of an electricity distributor are to be in accordance with any guidelines issued by the Minister. 25

**Nature of contracts for general manager and senior staff**

10. (1) The general manager and senior staff of an electricity distributor are to be employed under contracts that are performance-based.

(2) The term of a contract must not be less than 12 months or more than 5 years (including any option for renewal). A term that is less than 12 months is taken to be for 12 months and a term for more than 5 years is taken to be limited to 5 years. 30

(3) Contracts may be renewed from time to time. 35

**Annual reporting of contracts for senior staff**

11. The general manager of an electricity distributor must, at least once annually, report to the board of directors of the distributor on the contractual conditions of senior staff.

*Electricity (Amendment) 1993*SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***Industrial arbitration excluded**

5 12. (1) In this clause, a reference to the employment of the  
general manager or a senior staff member is a reference to:

- (a) the appointment of, or failure to appoint, a person to  
the vacant position of general manager or to a vacant  
senior staff position; or
- 10 (b) the removal, retirement, termination of employment or  
other cessation of office of the general manager or a  
senior staff member; or
- (c) the remuneration or conditions of employment of the  
general manager or a senior staff member.

15 (2) The employment of the general manager or a senior  
staff member, or any matter, question or dispute relating to  
any such employment, is not an industrial matter for the  
purposes of the Industrial Relations Act 1991.

20 (3) Subclause (2) applies whether or not any person has  
been appointed to the vacant position of general manager or a  
vacant senior staff position.

(4) No award, agreement, contract determination or order  
made or taken to have been made or continued in force under  
the Industrial Relations Act 1991, whether made before or  
after the commencement of this clause, has effect in relation  
25 to the employment of the general manager or senior staff  
members.

30 (5) No proceedings for an order in the nature of  
prohibition, certiorari or mandamus or for a declaration or  
injunction, or for any other relief, lie in respect of the  
appointment of or failure to appoint a person to the position  
of general manager or to a senior staff position, the  
entitlement or non-entitlement of a person to be so appointed  
or the validity or invalidity of any such appointment.

**Duty to report bankruptcy**

35 13. (1) If a person who is a senior staff member becomes  
bankrupt or makes a composition, arrangement or assignment  
for the benefit of the person's creditors, the person must:

- 40 (a) immediately give notice of the bankruptcy,  
composition, arrangement or assignment to the general  
manager; and

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(b) provide the general manager with any further information concerning the cause of the bankruptcy or of the making of the composition, arrangement or assignment required by the general manager within a time specified by the general manager. 5

(2) This clause applies to the general manager in the same way as it applies to a senior staff member and so applies as if references to the general manager were references to the board of directors of the electricity distributor. 10

**PART 4—EQUAL EMPLOYMENT OPPORTUNITY****Objects of Part**

14. The objects of this Part are:

- (a) to eliminate and ensure the absence of discrimination in employment in electricity distributors on the grounds of race, sex, marital status and physical impairment; and 15
- (b) to promote equal employment opportunity for women, members of racial minorities and physically handicapped persons in electricity distributors. 20

**Preparation and implementation of management plans**

15. (1) An electricity distributor must prepare and implement an equal employment opportunity management plan in order to achieve the objects of this Part. 25

(2) The plan is to include provisions relating to:

- (a) the devising of policies and programs by which the objects of this Part are to be achieved; and
- (b) the communication of those policies and programs to persons within the staff of the electricity distributor; and 30
- (c) the collection and recording of appropriate information; and
- (d) the review of personnel practices within the distributor (including recruitment techniques, selection criteria, training and staff development programs, promotion and transfer policies and patterns, and conditions of service) with a view to the identification of any discriminatory practices; and 35

*Electricity (Amendment) 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

- 5 (e) the setting of goals or targets, where these may reasonably be determined, against which the success of the plan in achieving the objects of this Part may be assessed; and
- (f) the means, other than those referred to in paragraph (e), of evaluating the policies and programs referred to in paragraph (a); and
- 10 (g) the revision and amendment of the plan; and
- (h) the appointment of persons within the distributor to implement the provisions referred to in paragraphs (a)–(g).

15 (3) An equal employment opportunity management plan may include provisions, other than those referred to in subclause (2), that are not inconsistent with the objects of this Part.

(4) An electricity distributor may, from time to time, amend its equal employment opportunity management plan.

20 **Inconsistencies with the Anti-Discrimination Act 1977**

16. (1) The provisions of an equal employment opportunity management plan, to the extent of any inconsistency between those provisions and the provisions of the Anti-Discrimination Act 1977, prevail.

25 (2) This clause does not apply to or in respect of the provisions of a plan which are the subject of a reference under this Part to the Anti-Discrimination Board or the Director of Equal Opportunity in Public Employment.

**References**

30 17. (1) Where the Minister is dissatisfied with any matter relating to the preparation, amendment or implementation of an equal employment opportunity management plan by an electricity distributor or any failure or omission of an electricity distributor with respect to the preparation, amendment or implementation of any such plan, the Minister may refer the matter to the Anti-Discrimination Board or the Director of Equal Opportunity in Public Employment.

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**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) The provisions of section 122N of the Anti-Discrimination Act 1977, and the succeeding provisions of Part 9A of that Act, apply to and in respect of a reference under this clause to the Anti-Discrimination Board as if it were a reference under section 122M of that Act and as if the electricity distributor were an authority within the meaning of that Part. 5

**PART 5—OTHER PROVISIONS CONCERNING STAFF** 10

**Advertising of staff positions**

18. (1) When it is proposed to make an appointment to a position within the organisation structure of an electricity distributor, the position must be advertised in a manner sufficient to enable suitably qualified persons to apply for the position. 15

(2) If the position is a senior staff position, the requirement of this clause is satisfied if the position is advertised at least twice in a daily newspaper circulating throughout the State. 20

(3) This clause does not apply to:

- (a) the re-appointment, under a new contract, of a senior staff member whose contract has expired; or
- (b) the appointment of an employee if the term of employment is for: 25
  - (i) not more than 12 months; or
  - (ii) two or more periods that together are not more than 12 months in any period of 2 years.

**Appointments to be on merit**

19. (1) When the decision is being made to appoint a person to a position: 30

- (a) only a person who has applied for appointment to the position may be selected; and
- (b) from among the applicants eligible for appointment, the applicant who has, in the opinion of the general manager (in consultation with the board of directors, if the position is a senior management staff position), the greatest merit is to be selected. 35

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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(2) The merit of the persons eligible for appointment to a position is to be determined according to:

- 5
- (a) the nature of the duties of the position; and
  - (b) the abilities, qualifications, experience and standard of work performance of those persons relevant to those duties.

**Appointments to which clauses 18 and 19 do not apply**

10 20. Clauses 18 and 19 do not apply to:

- (a) an appointment by way of demotion; or
- (b) an appointment by way of a lateral transfer, unless the electricity distributor decides that those clauses are to apply to the appointment.

15 **Temporary appointments**

21. (1) If a position other than the general manager (but including a senior staff position) within the organisation structure of an electricity distributor is vacant or the holder of such a position is suspended from duty, sick or absent, the  
20 general manager may appoint a person to the position temporarily.

(2) A person who is appointed to a position temporarily may not continue in that position for a period of more than 12 months.

25 **Independence of staff for certain purposes**

22. (1) The general manager or a member of staff of an electricity distributor is not subject to a direction by the board of directors of the distributor as to the content of any advice or recommendation made by the member.

30 (2) This clause does not prevent the board of directors of an electricity distributor from directing the general manager or a member of staff to provide advice or a recommendation.

**Other work**

35 23. (1) The general manager must not engage, for remuneration, in private employment or contract work outside the service of the electricity distributor without the written approval of the board of directors of the distributor.

*Electricity (Amendment) 1993***SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

(2) A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the electricity distributor that relates to the business of the distributor or that might conflict with the member's duties as a member of staff of the distributor unless he or she has notified the general manager in writing of the employment or work. 5

(3) The general manager may prohibit a member of staff from engaging, for remuneration, in private employment or contract work outside the service of the electricity distributor that relates to the business of the distributor or that might conflict with the member's duties as a member of staff of the distributor. 10  
15

(4) A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the electricity distributor if prohibited from doing so under subclause (3).

**SCHEDULE 11—SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS 20**

(Sec. 39)

**PART 1—GENERAL****Savings and transitional regulations**

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts: 25

Electricity (Amendment) Act 1993.

(2) In particular, the regulations may, in the case of the enactment of the Electricity (Amendment) Act 1993, provide for the resolution of disputes, or to avoid doubt, may be made with respect to whether any person employed or thing done or used by a former electricity council was employed or done or used in connection with its electricity functions. 30

(3) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the appointed day or a later day. 35

*Electricity (Amendment) 1993*

SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(4) 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.

**PART 2—PROVISIONS CONSEQUENTIAL ON THE  
ENACTMENT OF THE ELECTRICITY  
(AMENDMENT) ACT 1993**

**Definitions**

2. (1) In this Schedule:

“**corresponding electricity distributor**”, in relation to a former electricity council, means the electricity distributor specified by the proclamation that dissolves the council or declares that the council has no authority to exercise electricity functions;

“**defunct county council**” means a county council dissolved by proclamation under this Act;

“**electricity function**” means the generation, distribution, transmission, reticulation or supply of electricity;

“**former electricity council**” means a local government council or a county council that, immediately before the appointed day, was authorised under an Act to supply electricity to the public.

(2) In any provision of this Schedule, “**appointed day**”, in relation to a defunct county council or a former electricity council, means the day on which the council is dissolved or ceases to have authority to exercise electricity functions.

*Electricity (Amendment) 1993*


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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*continued*
**Transfer of assets, rights and liabilities**

3. (1) On the appointed day, the following provisions have effect: 5
- (a) any assets of a former electricity council that were used for or in connection with its electricity functions vest in the corresponding electricity distributor without the need of any conveyance, transfer, assignment or assurance; 10
  - (b) the rights and liabilities of each former electricity council in connection with its electricity functions become by virtue of this clause the rights and liabilities of the corresponding electricity distributor; 15
  - (c) all proceedings commenced before the appointed day by or against a former electricity council in connection with its electricity functions and pending immediately before the appointed day are taken to be proceedings pending by or against the corresponding electricity distributor; 20
  - (d) any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of a former electricity council in connection with its electricity functions 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 the corresponding electricity distributor. 25
- (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 30
  - (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. 35

*Electricity (Amendment) 1993*


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SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued*

(3) The operation of this clause is not to be regarded as an event of default under any contract or other instrument.

(4) No attornment to an electricity distributor by a lessee from a former electricity council is required.

**Existing councillors of defunct county councils**

4. (1) A person who, immediately before the appointed day, held office as Chairman or a member of a defunct county council:

(a) ceases to hold that office; and

(b) holds office, subject to this Act, as Chairperson or a director, respectively, of the corresponding electricity distributor.

(2) A person who so ceases to hold office as a member of a defunct county council is not entitled to any remuneration or compensation because of the loss of that office.

**Existing general manager of defunct county council**

5. (1) A person who, immediately before the appointed day, held office as general manager of a defunct 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 a defunct county council is taken to have been appointed under this Act as the general manager of the corresponding electricity distributor under the terms and for the remaining duration of the general manager's existing employment contract with the defunct county council.

**Continuity of staff of former electricity council**

6. (1) The persons who were, immediately before the appointed day, members of staff of a former electricity council employed in connection with its electricity functions are taken to be members of staff of the corresponding electricity distributor employed under this Act.

*Electricity (Amendment) 1993*


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 SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
 RELATING TO ELECTRICITY DISTRIBUTORS—*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 employment contracts, 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 former electricity council. 5

(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. 10

**Saving of water supply functions of certain defunct county councils**

7. (1) Subject to the regulations, any functions of a water supply authority that, immediately before the appointed day, were exercisable by a former electricity council are to be exercised by the corresponding electricity distributor. 15

(2) The regulations may make provision for or with respect to the transfer of any such water supply functions from the electricity distributor to any other body with the consent of the Minister administering the Water Supply Authorities Act 1987. In particular, the regulations may provide that references in any other Act or instrument to an authority involved in the supply of water are to be construed as or as including references to a body to which such functions are transferred. 20 25

**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: 30

(a) defunct county councils; and

(b) the production and supply of electricity,

do not apply to or in respect of an electricity distributor. 35

*Electricity (Amendment) 1993*SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO  
ELECTRICITY ACT 1945—*continued*

5 (2) The provisions of the Local Government Act 1919 and the ordinances made under that Act relating to the employment of persons by a former electricity council in connection with its electricity functions do not apply to a person employed under this Act, except as provided by this clause.

10 (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 a former electricity council in connection with its electricity functions and who was the subject of an inquiry, or suspended, under that section.

15 **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:

- 20 (a) to a former electricity council in connection with its electricity functions is taken to be a reference to the corresponding electricity distributor; or
- 25 (b) the chairman of a defunct county council is taken to be a reference to the Chairperson of the corresponding electricity distributor; or
- (c) to a delegate to a defunct county council is taken to be a reference to a director of the corresponding electricity distributor; or
- 30 (d) to the general manager of a defunct county council is taken to be a reference to the general manager of the corresponding electricity distributor.

**Existing resumptions and appropriations**

35 10. An acquisition of land by compulsory process, and the assessment and payment of compensation relating to the acquisition that was commenced before the appointed day by or on behalf of a former electricity council in connection with its electricity functions is to be completed or otherwise dealt with by or on behalf of the corresponding electricity distributor in accordance with the provisions of clause 3.



*Electricity (Amendment) 1993*

**SCHEDULE 1—AMENDMENT OF ELECTRICITY ACT 1945  
RELATING TO ELECTRICITY DISTRIBUTORS—*continued***

**Saving of operation of County Districts Reconstitution  
Act 1979, s. 8**

11. Section 8 of the County Districts Reconstitution Act 1979 continues to apply for the good of any person to whom it applied immediately before its repeal by this Act. 5

**SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO  
ELECTRICITY ACT 1945**

(Sec. 3) 10

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

- (a) From the definition of “Cathodic protection system” in section 4 (1), omit “, but does not include any such appliances, wires, fittings or other apparatus installed on a floating mobile structure or on any equipment used for the taking of fish”. 15

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

“**Stray current source**” means any appliance, equipment, fitting or other apparatus:

- (a) that operates on direct electrical current or is designed or used to generate or transmit direct electrical current; and 20

- (b) that is attached, whether directly or indirectly, to a metallic structure in contact with land, including water. 25

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

(a) From section 5 (3), omit “17”, insert instead “16”.

(b) From section 5 (3), omit “15”, insert instead “14”.

(c) Omit section 5 (4) (e).

**(3) Section 9 (Powers of Corporation relating to the generation and supply of electricity): 30**

Omit section 9 (1) (f).

*Electricity (Amendment) 1993*


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SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO  
ELECTRICITY ACT 1945—*continued*

(4) Section 14AAA (**Corporation empowered to effect or arrange insurance policies etc.**):

- 5 (a) In section 14AAA (1), after “applies.”, insert “The Corporation may also enter into, or arrange for the authorities to enter into, a self-insurance scheme of the kind to which subsection (2A) applies.”.
- 10 (b) After section 14AAA (2), insert:
- 15 (2A) For the purposes of subsection (1), a self-insurance scheme is of a kind to which this subsection applies if it is a scheme under which money is set aside to indemnify an electricity supply authority covered by the scheme in respect of any prescribed liability, loss or damage incurred or sustained during the currency of the scheme by that authority (being a prescribed liability, loss or damage that is specified in the scheme).
- 20 (c) In section 14AAA (3), after “policy”, insert “or scheme”.
- (d) In section 14AAA (4), after “policy”, insert “or self-insurance scheme”.
- (e) From section 14AAA (5), omit “subsection (2)”, insert instead “this section”.
- (f) In section 14AAA (6), after “policy”, insert “or self-insurance scheme”.

25 (5) Section 14AAF:

After section 14AAE, insert:

**Investment of surplus from premium**

30 14AAF. Money in the Electricity Development Fund that was paid to the Fund for the purpose of effecting insurance, or for management for self-insurance purposes, in accordance with this Part but which is not required for the payment of premiums may be invested by the Corporation:

- 35 (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 on the Corporation to invest money—in securities in which trustees are by law authorised to invest.

*Electricity (Amendment) 1993*


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SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO  
ELECTRICITY ACT 1945—*continued*

- (6) Sections 19B–19E:
- Omit the sections, insert instead:
- Contribution by distributors** 5
- 19B. An electricity distributor and Sydney Electricity must contribute annually towards the annual charges for the lighting of traffic routes an amount determined by the Minister in consultation with the Minister administering the Traffic Act 1909. 10
- (7) Section 19H (**Payments of subsidies for removal etc. of electricity structures out of Traffic Route Lighting Subsidy Account**):
- Omit the section.
- (8) Section 25 (**Power of entry**): 15
- From section 25 (1), omit “or cathodic protection system”, insert instead “, cathodic protection system or stray current source”.
- (9) Section 28:
- Before section 28A, insert: 20
- Delegation of functions**
28. (1) The Minister may delegate to an authorised person any of the functions of the Minister under this Act, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by the Minister if the delegate is authorised in writing to do so by the Minister. 25
- (3) In this section “authorised person” means:
- (a) a public authority or local authority or an officer of a public authority or local authority; or 30
- (b) a public servant; or
- (c) a person of a class prescribed by the regulations.

*Electricity (Amendment) 1993*


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SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO  
ELECTRICITY ACT 1945—*continued*

(10) Section 37 (**Regulations**):

- 5           In section 37 (2) (a3), (b) and (d), after “cathodic protection systems” wherever occurring, insert “and stray current sources”.

## SCHEDULE 3—AMENDMENT OF OTHER ACTS

(Sec. 4)

**Electricity Commission Act 1950 No. 22**10 (1) Section 3 (**Definitions**):

- (a) From section 3 (1), omit the definition of “Council”.  
(b) From section 3 (1), omit the definition of “Electricity supply authority”, insert instead:

15           **“Electricity supply authority”** means a person or body engaged in the supply of electricity to the public or in the generation of electricity for supply, directly or indirectly, to the public whether by statute, franchise agreement or otherwise and includes:

- 20           (a) the Commission; or  
(b) an electricity distributor within the meaning of the Electricity Act 1945; or  
(c) Sydney Electricity; or  
(d) the State Rail Authority; or  
(e) the Water Administration Ministerial Corporation.

25 (2) Section 9 (**Powers of Commission**):

Omit section 9 (2), insert instead:

30           (2) The Commission must not supply electricity to any person for use within the distribution district of an electricity distributor constituted under the Electricity Act 1945, or within the Sydney Electricity District as defined in the Sydney Electricity Act 1990, except:

- 35           (a) with the approval of the Minister, on the recommendation of the Corporation; and  
(b) on such terms and conditions as may be approved by the Minister, on the recommendation of the Corporation and after consultation with the electricity distributor concerned.

*Electricity (Amendment) 1993*SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

## (3) Section 78:

After section 77, insert:

**Assignment of certain easements**

78. (1) The Commission may, by notification published in the Gazette, assign to an electricity distributor constituted under the Electricity Act 1945 or Sydney Electricity any easement vested in the Commission. 5

(2) The assignment takes effect on publication of the notification in the Gazette or on a later date specified in the notification, and takes effect without the need of execution or registration of any other instrument. 10

(3) The Registrar-General may make such recordings in a folio of the Register kept under the Real Property Act 1900 or other records kept or maintained by the Registrar-General as appear to the Registrar-General to be proper to be made in order to record the assignment of an easement under this section and, if need be, may for that purpose require any further particulars of the easement to be furnished by the Commission, the electricity distributor or Sydney Electricity. 15 20

**Government Pricing Tribunal Act 1992 No. 39****Schedule 1 (Government Agencies for which Tribunal has Standing Reference):**

(a) After "Sydney Electricity", insert:

An electricity distributor within the meaning of the Electricity Act 1945, and Broken Hill City Council and Tenterfield Shire Council in relation to their exercise of the functions of an electricity distributor under that Act 25

(b) From the matter relating to county councils, omit "or electricity". 30

*Electricity (Amendment) 1993*SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued***Land Development Contribution Management Act 1970 No. 22****Section 7 (Time when declared land becomes liable for contribution):**

- 5           From section 7 (6), omit “a county council or a council”, insert instead “an electricity distributor within the meaning of the Electricity Act 1945 or Broken Hill City Council or Tenterfield Shire Council (in the exercise of the functions of an electricity distributor within the meaning of that Act)”.

**10 Public Authorities (Financial Arrangements) Act 1987 No. 33****Schedule 1 (Authorities):****(a) Insert in alphabetical order:**

An electricity distributor constituted under the Electricity Act 1945.

**15 (b) Omit:**

- Central West County Council.  
 Illawarra County Council.  
 Macquarie County Council.  
 Monaro County Council.  
 20 Murray River County Council.  
 Murrumbidgee County Council.  
 Namoi Valley County Council.  
 New England County Council.  
 North West County Council.  
 25 Northern Riverina County Council.  
 Northern Rivers County Council.  
 Ophir County Council.  
 Oxley County Council.  
 Peel-Cunningham County Council.  
 30 Prospect County Council.  
 Shortland County Council.  
 South West Slopes County Council.  
 Southern Mitchell County Council.

*Electricity (Amendment) 1993*SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

Southern Riverina County Council.	
Southern Tablelands County Council.	
Tumut River County Council.	
Ulan County Council.	5

**Public Finance and Audit Act 1983 No. 152**

## Schedule 2 (Statutory Bodies):

(a) Insert in appropriate alphabetical order of body:	
An electricity distributor constituted under the Electricity Act 1945.	10
(b) Omit:	
Central West County Council.	
Illawarra County Council.	
Macquarie County Council.	
Monaro County Council.	15
Murray River County Council.	
Murrumbidgee County Council.	
Namoi Valley County Council.	
New England County Council.	
Northern Rivers County Council.	20
North-West County Council.	
Ophir County Council.	
Peel-Cunningham County Council.	
Prospect County Council.	
Shortland County Council.	25
Southern Mitchell County Council.	
Southern Tablelands County Council.	
South-west Slopes County Council.	
Tumut River County Council.	
Ulan County Council.	30

*Electricity (Amendment) 1993*SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued***Traffic Act 1909 No. 5**

Parts 3C, 3D:

Before Part 4, insert:

5                                   **PART 3C—TRAFFIC ROUTE LIGHTING****Definitions**

10X. In this Part:

“**council**” means a local government council;10                   “**traffic route**” means a public road within the meaning  
of the Local Government Act 1919:(a) which has been proclaimed or declared as a main  
or secondary road under the State Roads Act  
1986; or15                   (b) which, if not so proclaimed or declared, the  
Authority has, by reason of the volume of  
vehicular or pedestrian traffic carried on it,  
determined requires lighting to a standard  
approved by the Authority.**Payments of subsidies**20                   10Y. (1) The Authority may with the approval of the  
Minister grant annual subsidies to councils for the lighting, to  
a standard approved by the Authority, of traffic routes.25                   (2) Before granting any such subsidy the Authority may  
require a council to enter into an agreement with the  
Authority to secure the carrying out of the purposes for  
which, and the terms and conditions on and subject to which,  
the subsidy is granted.**Authority to make available money for subsidies**30                   10Z. (1) In the period of 12 months commencing on 1 July  
next succeeding the commencement of this Part and in each  
period of 12 months thereafter, the Authority must make  
available the amount of subsidies that the Minister with the  
concurrence of the Treasurer estimates will be granted to  
councils under this Part in that period of 12 months.



*Electricity (Amendment) 1993*SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

(2) The Minister, before the commencement of each period of 12 months referred to in subsection (1), is to serve a notice on the Authority specifying the amount of the payment required.

5

(3) An amount payable under this section in any period of 12 months is to be paid in such sum or sums, at such time or times during that period and in such manner as the Minister may require in and by the notice referred to in subsection (2).

(4) The Authority may make the whole or any part of a payment required by this section out of the Roads and Traffic Authority Fund under the Transport Administration Act 1988.

10

**PART 3D—ELECTRICITY STRUCTURES****Definitions**

15

10ZA. In this Part:

“**electricity distributor**” means an electricity distributor within the meaning of the Electricity Act 1945 and includes Sydney Electricity or Broken Hill City Council or Tenterfield Shire Council in the exercise of the functions of an electricity distributor under that Act;

20

“**electricity structure**” means any structure erected or maintained by an electricity distributor within the meaning of the Electricity Act 1945 for the purpose of transmission or distribution of electricity or for the purpose of public lighting;

25

“**traffic route**” has the same meaning as in Part 3C.

**Payments of subsidies for removal etc. of electricity structures**

10ZB. (1) The Authority may, with the approval of the Minister grant subsidies to an electricity distributor for or towards the cost of removing or relocating electricity structures erected, within the distribution district of the distributor, on or adjacent to public roads, being electricity structures which the Authority has determined require removal or relocation for the purposes of traffic safety.

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*Electricity (Amendment) 1993*

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SCHEDULE 3—AMENDMENT OF OTHER ACTS—*continued*

5           (2) Before granting any such subsidy, the Authority may require an electricity distributor referred to in subsection (1) to enter into an agreement with the Authority to secure the carrying out of the purposes for which, and the terms and conditions upon and subject to which, the subsidy is granted.

**Unclaimed Money Act 1982 No. 174**

Section 3 (**Definitions**):

10           In paragraph (g) of the definition of “business” in section 3 (1), after “1919”, insert “or an electricity distributor within the meaning of the Electricity Act 1945”.

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