

FIRST PRINT

**ELECTRICITY COMMISSION (CORPORATISATION)
BILL 1991**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to establish a State owned corporation, within the context of the State Owned Corporations Act 1989, in relation to the generation, transmission and supply of electricity.

The Bill provides for the establishment of The Pacific Power Corporation of New South Wales Limited ("Pacific Power Corporation") as a SOC.

The Bill also provides for the transfer of certain assets, rights and liabilities of the Electricity Commission of New South Wales ("Electricity Commission") to Pacific Power Corporation, and for the dissolution of the Electricity Commission.

The Bill contains other provisions, as described below.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a proclaimed day or days.

Clause 3 contains definitions used in the proposed Act, and also provides that words and expressions used in the proposed Act have the same meanings as they have in the State Owned Corporations Act 1989.

PART 2—ESTABLISHMENT OF STATE OWNED CORPORATION

Clause 4 provides for the insertion of the name of Pacific Power Corporation in Schedule 1 to the State Owned Corporations Act 1989. This action is contemplated by the State Owned Corporations Act, and has the effect of making Pacific Power Corporation a SOC.

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PART 3—TRANSFER OF ASSETS, RIGHTS AND LIABILITIES

Clause 5 empowers the Minister to direct the transfer of the business undertaking of the Electricity Commission to Pacific Power Corporation. On the direction taking effect, the assets of the Electricity Commission vest in Pacific Power Corporation and the rights and liabilities of the Electricity Commission become those of Pacific Power Corporation.

Clause 6 empowers the Minister to direct that assets, rights and liabilities be excluded from the business undertaking transferred to Pacific Power Corporation, and these are transferred instead to another person nominated by the Minister on behalf of the Crown.

Clause 7 empowers the Minister to direct the transfer of other assets, rights and liabilities belonging to the State and used by the Electricity Commission. Such a transfer is to be made to Pacific Power Corporation or a subsidiary of Pacific Power Corporation.

PART 4—DISSOLUTION OF ELECTRICITY COMMISSION

Clause 8 repeals the Electricity Commission Act 1950 and all regulations in force under that Act.

Clause 9 provides for the dissolution of the Electricity Commission.

Clause 10 provides that commissioners of the Electricity Commission cease to hold office on its dissolution. Compensation is payable under Part 8 of the Public Sector Management Act 1988 to a person so affected, unless the person is appointed to the service of Pacific Power Corporation or a subsidiary of Pacific Power Corporation.

Clause 11 states that, on dissolution of the Electricity Commission, Pacific Power Corporation is taken for all purposes including rules of international law to be a continuation of and the same legal entity as the Electricity Commission. This provision does not affect a transfer of assets, rights and liabilities under the proposed Act.

PART 5—MISCELLANEOUS

Clause 12 establishes an Electricity Ministerial Corporation for the purpose of being a repository of assets, rights and liabilities of the Electricity Commission that are not transferred to Pacific Power Corporation or a subsidiary of Pacific Power Corporation or to another person nominated under clause 6.

Clause 13 deals with any changes of names that might occur for Pacific Power Corporation.

Clause 14 declares that Pacific Power Corporation is an authority to which Schedule 4 to the State Owned Corporations Act 1989 applies so as to provide protection of superannuation and other entitlements of eligible employees. This declaration is contemplated by clause 1 of the Schedule.

Clause 15 modifies the required articles of association for a subsidiary of Pacific Power Corporation, so that the prior approval of the voting shareholders for the appointment of directors is needed only for directors appointed by or on behalf of Pacific Power Corporation, and for the transfer of shares is needed only for shares held by Ministers or held by or on behalf of the Corporation.

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Clause 16 provides that the regulations may, for the purposes of the Trade Practices Act 1974 of the Commonwealth, authorise the transfer of the business undertaking of the Electricity Commission to Pacific Power Corporation, the performance of contracts included in the business undertaking and the making and performance by Pacific Power Corporation, after the transfer, of certain contracts related to the supply, and marketing of the supply, of electricity. The regulations may also exempt Pacific Power Corporation from the operation of the Monopolies Act 1923.

Clause 17 saves the operation of section 83 (No compensation in respect of failure of supply) of the Electricity Commission Act 1950, for the benefit of Pacific Power Corporation, in relation to arrangements for the supply of electricity entered into by the Electricity Commission. The section does not prevent the re-negotiation of existing arrangements or the making of new arrangements by Pacific Power Corporation.

Clause 18 provides that section 171 of the Local Government Act 1919 which requires payment of an annual charge to a local council in respect of wires, poles, cables or other structures suspended, constructed or placed on, under or over any public place, does not apply to Pacific Power Corporation.

Clause 19 states that Part 11 (Building Regulation) of the Local Government Act 1919 does not apply to buildings erected by the Electricity Commission before the transfer of the business undertaking, to alterations made to those buildings after the transfer, to buildings in the course of erection at the transfer date or to the erection or alteration of electricity transmission lines by Pacific Power Corporation.

Clause 20 provides that Pacific Power Corporation is the owner of all electricity installations that it installs in or on any land. Subject to compliance with the requirements for entry to land set out in section 39 of the Energy Administration Act 1987, Pacific Power Corporation may take any action to replace or maintain its electricity installations that it considers is necessary to ensure the efficient and safe operation of the installations.

Clause 21 states that nothing in the proposed Act or the State Owned Corporations Act 1989 amends the Eraring Power Station Act 1981 or affects any contract, arrangement or transaction entered into by the Electricity Commission or an affiliate under that Act. This stipulation does not affect the transfer of the business undertaking of the Electricity Commission to the Corporation or any transfer of assets, rights and liabilities of the Electricity Commission to the Ministerial Corporation.

Clause 22 provides that the proposed Act binds the Crown.

Clause 23 empowers the Governor-in-Council to make regulations for the purposes of the proposed Act, including regulations of a savings or transitional nature.

Clause 24 is a formal provision giving effect to the amendments set out in Schedule 1.

Clause 25 provides that sections 19 and 19AA (dealing with the Industrial Development Assistance Fund) of the Electricity Act 1945 do not apply to Pacific Power Corporation. These sections of the Electricity Act are to be repealed by the proposed Electricity and Other Legislation (Amendment) Act 1991.

Clause 26 provides that sections 77, 79, 80 and 81 of the Electricity Commission Act 1950 apply in relation to Pacific Power Corporation until a date to be appointed by the Governor by proclamation. These sections deal with damage to electric line or other

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works, tampering with meters, discontinuance of the supply of electricity in certain circumstances and damage to works that is likely to endanger life, health or property. The sections are to be replaced by provisions to be inserted in the Electricity Act 1945 by the proposed Electricity and Other Legislation (Amendment) Act 1991.

SCHEDULE 1—AMENDMENT OF ACTS

References to the Electricity Commission are removed from the Attachment of Wages Limitation Act 1957, the Capital Debt Charges Act 1957, the Clean Air Act 1961, the Clean Waters Act 1970, the Electricity Act 1945, the Environmental Planning and Assessment Act 1979, the Government and Related Employees Appeal Tribunal Act 1980, the Land Tax Management Act 1956, the Public Authorities (Financial Arrangements) Act 1987, the Public Finance and Audit Act 1983 and the Public Sector Management Act 1988. (Section 36 of the State Owned Corporations Act 1986 deals with the operation of the Government and Related Employees Appeal Tribunal Act 1980 and the Public Finance and Audit Act 1989 in relation to SOCs. The Public Authorities (Financial Arrangements) Act 1987 includes SOCs within the definition of "authority".)

References to the Electricity Commission are removed from certain Acts dealing with superannuation. (The rights of existing contributors are preserved by Schedule 4 of the State Owned Corporations Act 1989.)

Reference to a nominee of the Electricity Commission is removed from the Dams Safety Act 1978 and the membership of the Dams Safety Committee is reduced from 8 to 7. Reference to the positions of the chief executive and senior executives of the Electricity Commission are removed from the Public Sector Management Act 1988. Reference to the Electricity Commission Act 1950 is replaced with a reference to the proposed Act in the Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986 and a reference to the Electricity Commission in that Act is replaced with a reference to Pacific Power Corporation.

The Coal Mining Act 1973 and the Mining Act 1973 are amended by removing an exemption, in favour of the Electricity Commission, from payment of rent on certain land vested in the Electricity Commission.

The Conveyancing Act 1919 is amended to enable Pacific Power Corporation to stand in the same position as the Crown or public or local authorities in relation to enforcement of easements and restrictions of user of land and the creation of easements in gross and restrictions appurtenant to easements.

The Energy Administration Act 1987 is amended to provide that the Minister administering that Act may, in specified circumstances, acquire land for the purpose of construction by Pacific Power Corporation of an electricity installation, by compulsory process under the Land Acquisition (Just Terms Compensation) Act 1991. "Electricity installation" is defined as any plant, equipment, building, structure, facility or work the primary function of which is or is associated with the generation, transmission or supply of electricity in bulk. The Minister is also empowered to authorise certain persons to enter land for purposes connected with the construction of power stations and transmission lines by Pacific Power Corporation.

The Environmental Planning and Assessment Act 1979 is amended to provide that the consent of an owner of land is not required to a development application under Part 4 of that Act if the applicant is Pacific Power Corporation, the application relates to an

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electricity installation (that term being defined as in the Energy Administration Act 1979), and Pacific Power Corporation has, before making the application, served a copy on the owner.

The Factories, Shops and Industries Act 1962 is amended to provide that Division 2 (Registration of factories and control of building operations) of Part 3 (Health, safety and welfare in factories, shops and other industries) does not apply to electricity installations erected by the Electricity Commission before the transfer of its business undertaking, to alterations to those installations or to the completion of any installation in the course of erection at the transfer date. "Electricity installation" is defined as in the Energy Administration Act 1987 and the Environmental Planning and Assessment Act 1979.

The Interpretation Act 1987 is amended by insertion of a definition of "State owned corporation".

The State Owned Corporations Act 1989 is amended:

- (a) to require that the transfer of assets, rights or liabilities from an authority to a subsidiary of a SOC is subject to Ministerial direction; and
 - (b) to provide that the Environmental Planning and Assessment Act 1979 applies to development by a SOC. However, if the Minister for Planning certifies that the development is of State or regional significance, Part 5 of the Environmental Planning and Assessment Act 1979 applies to the development as if it were an activity under that Part. The Minister administering the Act which inserts the name of the SOC in Schedule 1 of the State Owned Corporations Act 1989 is the determining authority for and has the function of determining whether the development should be approved. The development must not include any act, matter or thing prohibited by an environmental planning instrument.
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1991**

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SCHEDULE 1—AMENDMENT OF ACTS

**ELECTRICITY COMMISSION (CORPORATISATION)
BILL 1991**

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No. , 1991

A BILL FOR

An Act to establish a State owned corporation in relation to the generation, transmission and supply of electricity and certain other matters; to provide for the transfer of assets, rights and liabilities of the Electricity Commission; to amend the State Owned Corporations Act 1989 and certain other Acts; to repeal the Electricity Commission Act 1950; and for other purposes.

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The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Electricity Commission (Corporatisation) Act 1991.

Commencement

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

Definitions

3. (1) Words and expressions used in this Act have the same meanings as they have in the State Owned Corporations Act 1989.

(2) In this Act:

“**business undertaking**” means all assets, rights and liabilities of the Electricity Commission, but does not include any excluded undertaking;

“**Corporation**” means The Pacific Power Corporation of New South Wales Limited;

“**Electricity Commission**” means the Electricity Commission of New South Wales constituted under the Electricity Commission Act 1950;

“**excluded undertaking**” means any assets, rights or liabilities of the Electricity Commission that the Minister has directed to be excluded under section 6;

“**instrument**” means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order and process of a court;

“**Ministerial Corporation**” means the Electricity Ministerial Corporation constituted by section 12.

PART 2—ESTABLISHMENT OF STATE OWNED CORPORATION**Establishment of Corporation as SOC**

4. The State Owned Corporations Act 1989 is amended by inserting in Schedule 1, in alphabetical order, the words "The Pacific Power Corporation of New South Wales Limited".

PART 3—TRANSFER OF ASSETS, RIGHTS AND LIABILITIES**Direction to transfer business undertaking**

5. (1) The Minister may, by order in writing, direct that the business undertaking of the Electricity Commission be transferred to the Corporation, on the date and for the consideration specified in the order.

(2) The transfer of assets, rights and liabilities under this section is to take place at a value or values specified in the order.

(3) On the commencement of the order, the following provisions have effect (subject to the order):

- (a) the assets of the Electricity Commission comprised in its business undertaking vest in the Corporation by virtue of this section and without the need for any conveyance, transfer, assignment or assurance;
- (b) the rights and liabilities of the Electricity Commission comprised in its business undertaking become by virtue of this section the rights and liabilities of the Corporation;
- (c) all proceedings relating to the business undertaking commenced before the transfer by or against the Electricity Commission or a predecessor of the Electricity Commission and pending immediately before the transfer are taken to be proceedings pending by or against the Corporation;
- (d) any act, matter or thing done or omitted to be done in relation to the business undertaking before the transfer by, to or in respect of the Electricity Commission 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 Corporation;
- (e) a reference in any Act, in any instrument made under any Act or in any document of any kind to the Electricity Commission or a predecessor of the Electricity Commission is, subject to this Act or regulations under section 23 (2), to be read as, or as including, a reference to the Corporation.

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- (4) 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.
- (5) The operation of this section is not to be regarded as an event of default under any contract or other instrument.
- (6) No attornment to the Corporation by a lessee from the Electricity Commission is required.
- (7) Assets, rights or liabilities may not be transferred under this section to the Corporation unless the Corporation is a State owned corporation.

Excluded undertakings

6. (1) The Minister may direct, by order in writing, that such assets, rights or liabilities of the Electricity Commission as are specified or referred to in the order be excluded from the Electricity Commission's business undertaking.

(2) On the date specified in the order, the excluded undertaking concerned is transferred to the Ministerial Corporation or such other person on behalf of the Crown as is so specified.

(3) Section 5 applies to that transfer in the same way as it applies to the transfer of the Electricity Commission's business undertaking to the Corporation.

(4) Different parts of any excluded undertaking may be so transferred to different persons.

(5) The Ministerial Corporation or other person is authorised to dispose of any excluded undertaking so transferred or to retain it and conduct any business to which it relates.

Transfer of other assets, rights or liabilities

7. (1) The Minister may direct, by order in writing, and on such terms and conditions as are set out or referred to in the order, that such other assets, rights or liabilities used by or attaching to the Electricity Commission for the generation, transmission and supply of electricity and

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associated purposes, and belonging to the State or an authority of the State, as are specified in the order be transferred to the Corporation or to a subsidiary of the Corporation.

(2) Section 5 applies to that transfer in the same way as it applies to the transfer of the Electricity Commission's business undertaking to the Corporation.

PART 4—DISSOLUTION OF ELECTRICITY COMMISSION

Repeal of Electricity Commission Act 1950 No. 22

8. The Electricity Commission Act 1950 and all regulations under that Act are repealed.

Dissolution of Electricity Commission

9. (1) The Electricity Commission is dissolved.

(2) The assets, rights and liabilities (if any) of the Electricity Commission immediately before its dissolution under this section are transferred to the Ministerial Corporation.

(3) Section 5 applies to that transfer in the same way as it applies to the transfer of the Electricity Commission's business undertaking to the Corporation.

Commissioners of Electricity Commission to vacate office

10. (1) A person who, immediately before the dissolution of the Electricity Commission, held office as a commissioner of the Electricity Commission:

- (a) ceases to hold office as such; and
- (b) except as provided by subsection (2), is not entitled to any remuneration or compensation because of the loss of that office.

(2) Part 8 of the Public Sector Management Act 1988 applies to a person who so ceases to hold office as a commissioner of the Electricity Commission, without immediately being appointed to the service of the Corporation or a subsidiary of the Corporation, in the same way as it applies to a person removed from office under that Part.

Corporation to be same legal entity as Electricity Commission

11. (1) On the dissolution of the Electricity Commission, the Corporation is taken for all purposes including the rules of private international law to be a continuation of and the same legal entity as the Electricity Commission.

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(2) This section does not affect any transfer of assets, rights and liabilities under section 6 or 9.

PART 5—MISCELLANEOUS

Ministerial Corporation

12. (1) There is constituted by this Act a corporation with the corporate name of the Electricity Ministerial Corporation.

(2) The affairs of the Ministerial Corporation are to be managed by the Minister.

(3) Any act, matter or thing done in the name of, or on behalf of, the Ministerial Corporation by the Minister, or with the authority of the Minister, is taken to have been done by the Ministerial Corporation.

(4) The Ministerial Corporation has the functions conferred or imposed on it by or under this or any other Act.

(5) The functions of the Ministerial Corporation are to hold and dispose of assets, rights and liabilities transferred to it under this Act.

Alteration of names

13. References in this Act to a company by a specified name include references to the company under any altered name.

Provisions relating to certain staff

14. Pursuant to clause 1 of Schedule 4 to the State Owned Corporations Act 1989, it is declared that the Electricity Commission is an authority to which that Schedule applies.

Provisions relating to subsidiaries

15. Part 2 of Schedule 3 to the State Owned Corporations Act 1989 is, as regards the Corporation, taken to be altered:

- (a) by inserting in clause 1 (5) after the word "director" the words "to be appointed by or on behalf of the Corporation";
- (b) by omitting clause 1 (9) and by inserting instead the following subclause:

(9) Shares may not be issued except with the prior written approval of the voting shareholders of the Corporation, and shares held by eligible Ministers or by or on behalf of the Corporation may not be transferred except with such prior written approval or by the Premier under subclause (4).

Regulations may authorise or exempt for purposes of Trade Practices Act 1974 (Cth) or Monopolies Act 1923 (NSW)

16. (1) In this section:

“authorise” includes approve;

“the Commonwealth Act” means the Trade Practices Act 1974 of the Commonwealth.

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

- (a) specifically authorising certain acts and things, or acts and things of certain kinds, for the purposes of section 51 of the Commonwealth Act;
- (b) exempting the Corporation from the whole or specified provisions of the Monopolies Act 1923.

(3) In particular, the regulations may contain provisions specifically authorising, for the purposes of section 51 of the Commonwealth Act:

- (a) the transfer under Part 3 of this Act of the business undertaking of the Electricity Commission to the Corporation; and
- (b) conduct relating to the performance of any or all contracts, agreements or understandings concerning the supply of electricity or the marketing of the supply of electricity that are included in the business undertaking of the Electricity Commission by the Corporation and all parties to any such contracts, agreements or understandings; and
- (c) the making by the Corporation of a contract, agreement or understanding relating to the supply of electricity or the marketing of the supply of electricity:

- (i) that is, or is of a kind that is, specified in the regulations for the purposes of this section; or

- (ii) that is approved by the Minister,

and all conduct of the Corporation and all parties to the contract, agreement or understanding that relates to the proposed making of, negotiating for, making, and performance of any such contract, agreement or understanding.

(4) If regulations made under this section authorise the Corporation to do any of the things referred to in subsection (3) (b) or (c), the Corporation, in exercising that authority, is authorised to do or omit to do any act or thing that is, or is of a kind that would be, but for the authorisation, a contravention of a provision of Part IV of the Commonwealth Act.

(5) If authorisation is conferred by regulations made under this section, the contract, agreement or understanding so authorised is lawful and the

Regulations

23. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, the regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act (including the interpretation of references to the Electricity Commission or any commissioner or employee of the Electricity Commission or to the Electricity Commission Act 1950 or any provision of that Act).

(3) Any such savings or transitional provision may, if the regulations so provide, take effect on the commencement of this section or a later date.

(4) To the extent to which any such savings or transitional provision takes effect on 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, the Corporation, the Electricity Commission or any other 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, the Corporation, the Electricity Commission or any other authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Amendment of Acts

24. The Acts specified in Schedule 1 are amended as set out in that Schedule.

Certain provisions disapplied

25. Sections 19 and 19AA of the Electricity Act 1945 do not apply to the Corporation.

Certain provisions continue to apply

26. Despite section 8 of this Act, sections 77, 79, 80 and 81 of the Electricity Commission Act 1950 continue to apply, until a date to be appointed by the Governor by proclamation for the purposes of this section, as if a reference in those sections to the Commission were a reference to the Corporation.

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associated purposes, and belonging to the State or an authority of the State, as are specified in the order be transferred to the Corporation or to a subsidiary of the Corporation.

(2) Section 5 applies to that transfer in the same way as it applies to the transfer of the Electricity Commission's business undertaking to the Corporation.

PART 4—DISSOLUTION OF ELECTRICITY COMMISSION

Repeal of Electricity Commission Act 1950 No. 22

8. The Electricity Commission Act 1950 and all regulations under that Act are repealed.

Dissolution of Electricity Commission

9. (1) The Electricity Commission is dissolved.

(2) The assets, rights and liabilities (if any) of the Electricity Commission immediately before its dissolution under this section are transferred to the Ministerial Corporation.

(3) Section 5 applies to that transfer in the same way as it applies to the transfer of the Electricity Commission's business undertaking to the Corporation.

Commissioners of Electricity Commission to vacate office

10. (1) A person who, immediately before the dissolution of the Electricity Commission, held office as a commissioner of the Electricity Commission:

- (a) ceases to hold office as such; and
- (b) except as provided by subsection (2), is not entitled to any remuneration or compensation because of the loss of that office.

(2) Part 8 of the Public Sector Management Act 1988 applies to a person who so ceases to hold office as a commissioner of the Electricity Commission, without immediately being appointed to the service of the Corporation or a subsidiary of the Corporation, in the same way as it applies to a person removed from office under that Part.

Corporation to be same legal entity as Electricity Commission

11. (1) On the dissolution of the Electricity Commission, the Corporation is taken for all purposes including the rules of private international law to be a continuation of and the same legal entity as the Electricity Commission.

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Corporation and all parties to the contract, agreement or understanding are authorised by force of this Act to enter into it, and to engage in the conduct referred to in subsection (3).

(6) Nothing in this section authorises the Corporation to do or omit to do any act or thing that it would not be empowered to do or omit to do apart from this section and the Commonwealth Act.

(7) An approval under subsection (3) (c) (ii) may be given subject to conditions determined by the Minister.

No compensation for failure to supply electricity in certain cases (cf. Electricity Commission Act 1950, sec. 83)

17. (1) Section 83 of the Electricity Commission Act 1950 as in force immediately before the commencement of this section applies for the benefit of the Corporation in relation to arrangements for the supply of electricity, included in the business undertaking of the Electricity Commission, entered into by the Electricity Commission before that commencement.

(2) Nothing in this section:

- (a) prevents the re-negotiation, amendment, alteration or substitution by the Corporation of such an arrangement entered into by the Electricity Commission before the commencement of this section; or
- (b) affects the making of new arrangements by the Corporation.

Corporation not liable to pay annual charge on wires etc. (cf. Local Government Act 1919, sec. 171)

18. Section 171 of the Local Government Act 1919 does not apply to the Corporation.

Part 11 of Local Government Act 1919 not to apply in certain cases

19. (1) Part 11 of the Local Government Act 1919 does not apply to or in respect of:

- (a) any building erected by the Electricity Commission before the transfer under Part 3 of the business undertaking of the Electricity Commission to the Corporation; or
- (b) any alterations made after the transfer to any building erected by the Electricity Commission before the transfer; or
- (c) the completion of any building that is in the course of erection on the date of the transfer; or

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SCHEDULE 1—AMENDMENT OF ACTS

(Sec. 24)

Attachment of Wages Limitation Act 1957 No. 28

Schedule:

Omit "The Electricity Commission of New South Wales."

Capital Debt Charges Act 1957 No. 1

Schedule:

Omit the matter relating to The Electricity Commission of New South Wales.

Clean Air Act 1961 No. 69

Section 5 (Definitions):

From the definition of "Statutory body" in section 5 (1), omit ", the Electricity Commission of New South Wales".

Clean Waters Act 1970 No. 78

Section 5 (Definitions):

From the definition of "statutory authority", omit "the Electricity Commission of New South Wales,".

Coal Mining Act 1973 No. 81

Section 75 (Rent):

Omit section 75 (11).

Conveyancing Act 1919 No. 6

- (1) Section 88 (Limitation of enforceability of easements and restrictions of user of land):

In section 88 (4), after "Parliament," insert "or by or for The Pacific Power Corporation of New South Wales Limited referred to in the Electricity Commission (Corporatisation) Act 1991,".

- (2) Section 88A (Easements in gross and restrictions appurtenant to easements):

After section 88A (3), insert:

(4) For the purposes of this section, The Pacific Power Corporation of New South Wales Limited referred to in the Electricity Commission (Corporatisation) Act 1991 is taken to be a public authority constituted by Act of Parliament.

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SCHEDULE 1—AMENDMENT OF ACTS—*continued*

Dams Safety Act 1978 No. 96

Section 8 (Members):

- (a) From section 8 (1), omit “8”, insert instead “7”.
- (b) Omit section 8 (2) (a).

Electricity Act 1945 (1946 No. 13)

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

From section 5 (4) (d), omit “General Manager of the Electricity Commission of New South Wales”, insert instead “Managing Director of The Pacific Power Corporation of New South Wales Limited”.

(2) **Section 15 (Electricity Development Fund):**

From section 15 (2) (a), omit “and the Commission”.

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

From section 16 (1) (c), omit “, the Electricity Commission”.

(4) **Section 19AB (Contributions by electricity councils):**

Omit section 19AB (1), insert instead:

(1) Electricity councils are to make contributions to the Electricity Development Fund when directed to do so by the Minister, despite the provisions of any other Act or instrument.

(5) **Section 37 (Regulations):**

- (a) From section 37 (2) (dd), omit “(other than by the Electricity Commission)”.
- (b) From section 37 (2) (gg), omit “the Electricity Commission or”.

(6) **Schedule 1 (Provisions relating to the members of the Electricity Council of New South Wales):**

From clause 5 (1), omit “, a public servant or the General Manager of the Electricity Commission”, insert instead “or a public servant”.

Energy Administration Act 1987 No. 103

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

In section 3 (1), insert, in alphabetical order:

“Pacific Power Corporation” means The Pacific Power Corporation of New South Wales Limited referred to in the Electricity Commission (Corporatisation) Act 1991;

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SCHEDULE 1—AMENDMENT OF ACTS—*continued*

(2) Section 15A:

After section 15, insert:

Compulsory acquisition of land for purposes of constructing an electricity installation

15A. (1) In this section, “electricity installation” means any plant, equipment, building, structure, facility or works the primary function of which is or is associated with the generation, transmission or supply of electricity in bulk.

(2) The Minister may acquire land by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the construction of an electricity installation by Pacific Power Corporation.

(3) The Minister may do so only if Pacific Power Corporation:

- (a) applies to the Minister for acquisition of the land; and
- (b) makes provision to the satisfaction of the Minister for the payment of compensation for compulsory acquisition (together with all necessary charges and expenses incidental to the acquisition).

(4) The Minister may transfer land acquired under this section to Pacific Power Corporation or to a subsidiary of Pacific Power Corporation unconditionally or subject to conditions.

(3) Section 39 (Power of entry):

(a) After section 39 (2), insert:

(2A) To enable Pacific Power Corporation to enter land to carry out tests, investigations, surveys, experiments, boring and drilling in connection with proposals for the construction of power stations and transmission lines, the Minister may, by written authority, authorise a person approved by the Minister for the purpose (in this section called an “approved person”) unconditionally or subject to conditions to enter any land or any place (not being a dwelling-place) on any land at any reasonable time:

- (a) to carry out tests, investigations, surveys, experiments, boring and drilling, and take samples and photographs, the approved person considers necessary for the purpose referred to in this subsection; and
- (b) to do any thing required for any other purpose connected with or related or incidental to that purpose,

even though an easement to enter the land or a right to enter the place may not have been granted or acquired.

(b) Omit section 39 (3), insert instead:

(3) The Corporation or an approved person must not exercise any power under this section unless the Corporation or approved person gives

Electricity Commission (Corporatisation) 1991

SCHEDULE 1—AMENDMENT OF ACTS—*continued*

at least 7 days' notice to the owner or occupier of the land or place concerned.

- (c) In section 39 (4), after "Corporation", insert "or an approved person".

Environmental Planning and Assessment Act 1979 No. 203

- (1) Section 77 (Making of development applications):

After section 77 (2A), insert:

(2B) Despite subsection (1) (b), the consent in writing of the owner of the land to which a development application relates is not required if:

- (a) the applicant is The Pacific Power Corporation of New South Wales Limited referred to in the Electricity Commission (Corporatisation) Act 1991; and
- (b) the application relates to the construction, use or demolition of an electricity installation; and
- (c) the applicant has, before making the application, served a copy of the application on the owner.

(2C) In subsection (2B), "electricity installation" means any plant, equipment, building, structure, facility or work the primary function of which is or is associated with the generation, transmission or supply of electricity in bulk.

- (2) Schedule 2 (Advisory Co-ordinating Committee):

From clause 1 (b), omit "The Electricity Commission of New South Wales."

Factories, Shops and Industries Act 1962 No. 43

Section 5A:

After section 5, insert:

Exemption of certain electricity installations

5A. (1) In this section:

"Corporatisation Act" means the Electricity Commission (Corporatisation) Act 1991;

"Electricity Commission" means the Electricity Commission of New South Wales constituted under the Electricity Commission Act 1950;

"electricity installation" means any plant, equipment, building, structure, facility or work the primary function of which is or is associated with the generation, transmission or supply of electricity in bulk;

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SCHEDULE 1—AMENDMENT OF ACTS—*continued*

“Pacific Power Corporation” means The Pacific Power Corporation of New South Wales Limited referred to in the Corporatisation Act.

(2) Division 2 of Part 3 does not apply to or in respect of:

- (a) any electricity installation erected by the Electricity Commission before the transfer under Part 3 of the Corporatisation Act of the business undertaking of the Electricity Commission to Pacific Power Corporation; or
- (b) any alterations made after the transfer to any electricity installation erected by the Electricity Commission before the transfer; or
- (c) the completion of the erection of any electricity installation that is in the course of erection on the date of the transfer.

Government and Related Employees Appeal Tribunal Act 1980 No. 39

Schedule 4 (Employing authorities):

Omit “The Electricity Commission of New South Wales.”.

Interpretation Act 1987 No. 15

Section 21 (Meaning of commonly used words and expressions):

In section 21 (1), insert, in alphabetical order:

“State owned corporation” means a State owned corporation within the meaning of the State Owned Corporations Act 1989;

Land Tax Management Act 1956 No. 26

Section 3 (Definitions):

From the definition of “Public authority” in section 3 (1), omit “the Electricity Commission of New South Wales.”.

Mining Act 1973 No. 42

Section 95 (Rent):

Omit section 95 (8).

New South Wales Retirement Benefits Act 1972 No. 70

Schedule 2:

Omit the matter relating to The Electricity Commission of New South Wales.

Electricity Commission (Corporatisation) 1991

SCHEDULE 1—AMENDMENT OF ACTS—*continued*

Public Authorities (Financial Arrangements) Act 1987 No. 33

Schedule 1 (Authorities):

Omit "The Electricity Commission of New South Wales."

Public Authorities Superannuation Act 1985 No. 41

Schedule 3 (Employers):

From Part 2, omit "The Electricity Commission of New South Wales (with respect to all its employees)."

Public Finance and Audit Act 1983 No. 152

Schedule 2 (Statutory bodies):

Omit "Electricity Commission of New South Wales."

Public Sector Management Act 1988 No. 33

(1) Schedule 3 (Declared authorities):

Omit "The Electricity Commission of New South Wales."

(2) Schedule 3A (Chief executive positions):

From Part 3, omit "General Manager of the Electricity Commission of New South Wales".

(3) Schedule 3B (Senior executive positions):

From Part 1, omit the heading "Electricity Commission of New South Wales" and all matter appearing beneath that heading.

State Authorities Non-contributory Superannuation Act 1987 No. 212

Schedule 1 (Employers):

From Part 1, omit "The Electricity Commission of New South Wales".

State Authorities Superannuation Act 1987 No. 211

Schedule 1 (Employers):

From Part 1, omit "The Electricity Commission of New South Wales".

State Owned Corporations Act 1989 No. 134

(1) Section 7A (Ministerial direction):

(a) After "corporation", insert ", a subsidiary of a State owned corporation or any other person".

(b) Omit "its name", insert instead "the name of the State owned corporation".

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SCHEDULE 1—AMENDMENT OF ACTS—*continued*

(2) Section 37A:

After section 37, insert:

Modification of Environmental Planning and Assessment Act 1979 in its application to certain proposals

37A. (1) In this section:

“development” means development within the meaning of Part 4 of the Planning Act;

“the Planning Act” means the Environmental Planning and Assessment Act 1979.

(2) The Planning Act applies to development by a State owned corporation, except as provided by this section.

(3) Part 5 of the Planning Act applies to development proposed to be carried out by a State owned corporation that is development, or of a class or description of development, that the Minister administering the Planning Act certifies in writing is of State or regional significance. That Part so applies to the development as if it were an activity within the meaning of that Part whether or not development consent under Part 4 of the Planning Act would otherwise be required or has been obtained in relation to the development. Part 4 of the Planning Act accordingly does not apply.

(4) The Minister administering the Act by which the name of the State owned corporation proposing the development is inserted in Schedule 1 to this Act is the determining authority (or, if more than one approval within the meaning of the Planning Act is required, the nominated determining authority) for the purposes of Part 5 of the Planning Act in relation to the proposal.

(5) A State owned corporation must not carry out development to which subsection (3) applies unless the State owned corporation has obtained the approval of the determining authority referred to in subsection (4).

(6) Development to which subsection (3) applies must not include any act, matter or thing that is prohibited by an environmental planning instrument made under the Planning Act.

State Public Service Superannuation Act 1985 No. 45

Schedule 3 (Employers):

Omit “The Electricity Commission of New South Wales.”.

Superannuation Act 1916 No. 28

Schedule 3 (List of employers):

From Part 1, omit “The Electricity Commission of New South Wales”.

Electricity Commission (Corporatisation) 1991

SCHEDULE 1—AMENDMENT OF ACTS—*continued*

Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986 No. 194

Section 9 (Energy Authority etc. not to construct or operate nuclear reactors to generate electricity):

- (a) Omit "Electricity Commission Act 1950", insert instead "Electricity Commission (Corporatisation) Act 1991".
 - (b) From section 9 (a), omit "Electricity Commission of New South Wales", insert instead "The Pacific Power Corporation of New South Wales Limited".
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