

South Australia



ELECTRICITY (MISCELLANEOUS) AMENDMENT ACT 1999

No. 60 of 1999

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ANNO QUADRAGESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1999

No. 60 of 1999

An Act to amend the Electricity Act 1996 and to make related amendments to the Renmark Irrigation Trust Act 1936.

[Assented to 19 August 1999]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Electricity (Miscellaneous) Amendment Act 1999*.

(2) The *Electricity Act 1996* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of long title

3. The long title of the principal Act is amended by striking out "to amend the Electricity Corporations Act 1994 and the Local Government Act 1934;".

Amendment of s. 4—Interpretation

4. Section 4 of the principal Act is amended—

(a) by striking out the definition of "access";

(b) by striking out the definition of "customer" and substituting the following definitions:

"cross-ownership rules" means the provisions set out in clause 2 of Schedule 1;

"customer" means a person who has a supply of electricity available from a transmission or distribution network for consumption by that person and includes—

(a) the occupier for the time being of a place to which electricity is supplied; and

(b) where the context requires, a person seeking an electricity supply; and

(c) a person of a class declared by regulation to be customers;;

- (c) by striking out from the definition of "electricity infrastructure" "thing" and substituting "things (including tunnels and cavities)";
- (d) by striking out from the definition of "electricity supply industry" "and sale of electricity" and substituting "or sale of electricity or other operations of a kind prescribed by regulation";
- (e) by inserting after the definition of "generation" the following definition:

"Industry Regulator" means the South Australian Independent Industry Regulator established under the *Independent Industry Regulator Act 1999*;;

- (f) by striking out the definition of "National Electricity Code" and substituting the following definitions:

"National Electricity Code" means the Code as defined in the *National Electricity (South Australia) Law*;

"National Electricity (South Australia) Law"—see the Schedule of the *National Electricity (South Australia) Act 1996*;;

- (g) by inserting in the definition of "powerline" ", conduits" after "structures";
- (h) by striking out the definition of "Pricing Regulator";
- (i) by striking out from the definition of "retailing" "and supply";
- (j) by striking out from the definition of "system controller" "appointed" and substituting "licensed";
- (k) by inserting after the definition of "Technical Regulator" the following definition:

"telecommunications" means the transmission of telephonic, radio, computer, television or other signals;;
- (l) by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) A reference in this Act to a powerline, a network, infrastructure or other property of an entity includes a reference to a powerline, a network, infrastructure or other property that is not owned by the entity but is operated by the entity.

Amendment of s. 5—Crown bound

5. Section 5 of the principal Act is amended by striking out from subsection (3)(b) "electricity corporation (within the meaning of the *Electricity Corporations Act 1994*) and any other".

Substitution of s. 6

6. Section 6 of the principal Act is repealed and the following section is substituted:

Other statutory requirements not affected

6. This Act is in addition to and does not derogate from the provisions of the *National Electricity (South Australia) Act 1996*, the *Environment Protection Act 1993* or any other Act.

Insertion of Part 2 Divisions 1 and 2

7. The following Divisions are inserted in Part 2 of the principal Act before Division 1 (*renumbered as Division 3 by section 9*):

DIVISION 1—INDUSTRY REGULATOR**Functions and powers of Industry Regulator**

6A. (1) The Industry Regulator has (in addition to the Industry Regulator's functions and powers under the *Independent Industry Regulator Act 1999*)—

- (a) the licensing, price regulation and other functions and powers conferred by this Act; and
- (b) if the Industry Regulator is appointed under the National Electricity Code as the body to perform or exercise certain functions and powers—those functions and powers; and
- (c) any other functions and powers conferred by regulation under this Act.

(2) If electricity entities are required by licence condition to participate in an ombudsman scheme, the Industry Regulator must, in performing licensing functions under this Act, liaise with the ombudsman appointed under the scheme.

(3) Without limiting subsection (1), the Governor may, by regulation, confer functions and powers on the Industry Regulator, or vary the functions and powers of the Industry Regulator, as the Governor considers necessary or expedient for the purposes of the *National Electricity (South Australia) Law* and the National Electricity Code.

(4) In performing functions under this Act, the Industry Regulator must (in addition to having regard to factors specified in this Act or the *Independent Industry Regulator Act 1999*) have regard to the provisions of the National Electricity Code and the need to avoid duplication of, or inconsistency with, regulatory requirements under the Code.

DIVISION 2—ELECTRICITY SUPPLY INDUSTRY PLANNING COUNCIL**Interpretation**

6B. In this Division—

"board" means the board of directors established as the governing body of the Planning Council;

"director" means a member of the board of the Planning Council;

"independent director" means a director appointed under section 6G(4);

"**Planning Council**" means the *Electricity Supply Industry Planning Council* established under this Division.

Establishment of Electricity Supply Industry Planning Council

6C. (1) The *Electricity Supply Industry Planning Council* is established.

(2) The Planning Council—

- (a) is a body corporate; and
- (b) has perpetual succession and a common seal; and
- (c) is capable of suing and being sued in its corporate name; and
- (d) has the functions and powers assigned or conferred by or under this or any other Act.

Application of Public Corporations Act 1993

6D. The Planning Council is a statutory corporation to which the provisions of the *Public Corporations Act 1993* apply subject to any exclusions or modifications prescribed by regulation.

Functions of Electricity Supply Industry Planning Council

6E. (1) The Planning Council has the following functions:

- (a) to develop overall electricity load forecasts in consultation with participants in the electricity supply industry and report the forecasts to the Minister and the Industry Regulator;
- (b) to review and report to the Minister and the Industry Regulator on the performance of the South Australian power system;
- (c) to advise the Minister and the Industry Regulator on matters relating to the future capacity and reliability of the South Australian power system;
- (d) to prepare or review proposals for significant projects relating to the transmission network in South Australia (taking into account possible alternatives to those projects such as the augmentation or extension of a distribution network, the construction or augmentation of the capacity of a generating plant and measures for reducing demand for electricity from the transmission network) and to make reports and recommendations to the Minister and the Industry Regulator in relation to such proposals;
- (e) to advise the Minister and the Industry Regulator, either on its own initiative or at the request of the Minister or the Industry Regulator, on other electricity supply industry and market policy matters;
- (f) to submit to the Minister and the Industry Regulator, and publish, an annual review of the performance, future capacity and reliability of the South Australian power system;
- (g) if the Planning Council is appointed under the National Electricity Code as the body to carry out certain functions—to carry out those functions;

- (h) to publish from time to time such information relating to the matters referred to above as the Planning Council considers appropriate;
- (i) to perform any other function prescribed by regulation or assigned by or under any other Act.

(2) The Planning Council has all the powers of a natural person together with powers conferred on it under this or any other Act.

(3) The Planning Council may perform its functions and exercise its powers within or outside the State.

Common seal and execution of documents

6F. (1) The common seal of the Planning Council must not be affixed to a document except in pursuance of a decision of the board, and the affixing of the seal must be attested by the signatures of two directors.

(2) The Planning Council may, by instrument under the common seal of the Planning Council, authorise a director or employee of the Planning Council (whether nominated by name or by office or title) or any other person to execute documents on behalf of the Planning Council subject to conditions and limitations (if any) specified in the instrument of authority.

(3) Without limiting subsection (2), an authority may be given so as to authorise two or more persons to execute documents jointly on behalf of the Planning Council.

(4) A document is duly executed by the Planning Council if—

- (a) the common seal of the Planning Council is affixed to the document in accordance with this section; or
- (b) the document is signed on behalf of the Planning Council by a person or persons in accordance with an authority conferred under this section.

Establishment of board

6G. (1) A board of directors is established as the governing body of the Planning Council.

(2) The board is to consist of five members appointed by the Governor.

(3) The members must be persons who have, in the Governor's opinion, appropriate qualifications or expertise in relation to one or more of the following:

- (a) power system planning, design, development or operation;
- (b) electricity markets;
- (c) financial management.

(4) Two of the members must be persons who are, in the opinion of the Governor, independent of the holders of licences authorising the generation of electricity or the operation of transmission or distribution networks.

(5) The Treasurer will consult with—

- (a) the holders of licences authorising the generation of electricity in respect of the selection of a person for appointment as one of the remaining three members;
- (b) the holders of licences authorising the operation of transmission networks in respect of the selection of a person for appointment as another of the remaining three members;
- (c) the holders of licences authorising the operation of distribution networks in respect of the selection of a person for appointment as the other of the remaining three members.

(6) At least one member of the board must be a woman and at least one must be a man.

(7) One of the independent directors will be appointed by the Governor to chair meetings of the board.

(8) On the office of a director becoming vacant, a person may be appointed under this section to the vacant office.

(9) The Governor may appoint deputies of directors, and the provisions of subsections (3), (4) and (5) apply in relation to the appointment of deputies in the same way as to directors.

(10) A deputy of a director is, in the absence of that director, to be taken to have the powers, functions and duties of a director in the same way as if the deputy had been appointed to be a director.

Conditions of membership

6H. (1) A director will be appointed for a term, not exceeding three years, specified in the instrument of appointment and will, at the expiration of a term of appointment, be eligible for reappointment.

(2) The Governor may remove a director from office—

- (a) for misconduct (including non-compliance with a duty imposed under the *Public Corporations Act 1993*); or
- (b) for failure or incapacity to carry out the duties of office satisfactorily; or
- (c) if irregularities have occurred in the conduct of the Planning Council's affairs or the board has failed to carry out its functions satisfactorily and the board's membership should, in the opinion of the Governor, be reconstituted for that reason; or
- (d) in the case of an independent director—if the director has, in the opinion of the Governor, ceased to be so independent.

- (3) The office of a director becomes vacant if the director—
- (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
 - (e) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (f) is removed from office under subsection (2).

Vacancies or defects in appointment of directors

6I. An act of the board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a director.

Remuneration

6J. A director is entitled to be paid from the funds of the Planning Council such remuneration, allowances and expenses as may be determined by the Governor.

Board proceedings

6K. (1) A quorum of the board consists of three directors at least one of whom must be an independent director or a deputy of an independent director.

(2) The director appointed to chair meetings of the board will preside at each meeting of the board at which the director is present.

(3) If the director appointed to chair meetings of the board is absent from a meeting of the board, the following provisions apply:

- (a) if the deputy of that director is present at the meeting—the deputy will preside at the meeting;
- (b) if the deputy of that director is not present at the meeting—the other independent director will preside at the meeting;
- (c) if that other independent director is not present at the meeting—the deputy of that other independent director will preside at the meeting.

(4) A decision carried by a majority of the votes cast by directors at a meeting is a decision of the board.

(5) Each director present at a meeting of the board has one vote on any question arising for decision and, if the votes are equal, the director presiding at the meeting may exercise a casting vote.

(6) A conference by telephone or other electronic means between directors will, for the purposes of this section, be taken to be a meeting of the board at which the participating directors are present if—

- (a) notice of the conference is given to all directors in the manner determined by the board for that purpose; and
- (b) each participating director is capable of communicating with every other participating director during the conference.

(7) A proposed resolution of the board becomes a valid decision of the board despite the fact that it is not voted on at a meeting of the board if—

- (a) notice of the proposed resolution is given to all directors in accordance with procedures determined by the board; and
- (b) a majority of the directors express their concurrence in the proposed resolution by letter, telex, facsimile transmission or other written communication setting out the terms of the resolution.

(8) The board must cause accurate minutes to be kept of its proceedings.

(9) Subject to this Act, the board may determine its own procedures.

Staff of Planning Council

6L. (1) The Minister may appoint a chief executive of the Planning Council on terms and conditions fixed by the Minister.

(2) The Planning Council may appoint, on terms and conditions fixed by the Planning Council, such employees as it thinks necessary or desirable.

Consultants

6M. The Planning Council may engage consultants on terms and conditions considered appropriate by the Planning Council.

Substitution of heading to Part 2 Division 1

8. The heading to Division 1 of Part 2 of the principal Act is repealed and the following heading is substituted:

DIVISION 3—TECHNICAL REGULATOR.

Amendment of s. 7—Technical Regulator

9. Section 7 of the principal Act is amended by striking out from subsection (2) "Governor" and substituting "Minister".

Substitution of s. 8

10. Section 8 of the principal Act is repealed and the following section is substituted:

Functions of Technical Regulator

8. The Technical Regulator has the following functions:

- (a) the monitoring and regulation of safety and technical standards in the electricity supply industry; and

- (b) the monitoring and regulation of safety and technical standards with respect to electrical installations; and
- (c) the administration of the provisions of this Act relating to the clearance of vegetation from powerlines; and
- (d) any other functions assigned to the Technical Regulator under this Act.

Amendment of s. 10—Technical Regulator's power to require information

11. Section 10 of the principal Act is amended—

- (a) by striking out from subsection (1) "the administration of this Act" and substituting "the performance of the Technical Regulator's functions under this Act";
- (b) by striking out the penalty provision from subsection (2) and substituting the following penalty provision:

Maximum penalty: \$20 000.

Amendment of s. 11—Obligation to preserve confidentiality

12. Section 11 of the principal Act is amended—

- (a) by striking out from subsection (1) "administering this Act" and substituting "the performance of the Technical Regulator's functions under this Act";
- (b) by striking out from subsection (1a) "Pricing Regulator" twice occurring and substituting, in each case, "Industry Regulator".

Repeal of ss. 12 and 13

13. Sections 12 and 13 of the principal Act are repealed.

Amendment of s. 14—Annual report

14. Section 14 of the principal Act is amended—

- (a) by striking out from subsection (1) "and the administration of this Act" and substituting "under this Act";
- (b) by striking out subsection (2).

Substitution of Part 2 Division 2 (ss. 14A to 14D)

15. Division 2 of Part 2 of the principal Act (comprising sections 14A to 14D) is repealed and the following Division is substituted:

DIVISION 4—ADVISORY COMMITTEES**Consumer advisory committee**

14A. The Industry Regulator must establish an advisory committee comprising representatives of consumers (the consumer advisory committee)—

- (a) to provide advice to the Industry Regulator in relation to the performance of the Industry Regulator's licensing functions under Part 3; and

- (b) to provide advice to the Industry Regulator, either on its own initiative or at the request of the Industry Regulator, on any other matter relating to the electricity supply industry.

Technical advisory committee

14B. The Technical Regulator must establish an advisory committee (the **technical advisory committee**) including representatives of—

- (a) electricity entities; and
- (b) contractor and employee associations involved in the electricity supply industry; and
- (c) local government,

to provide advice to the Technical Regulator, either on its own initiative or at the request of the Technical Regulator, on any matter relating to the functions of the Technical Regulator.

Other advisory committees

14C. The Minister, the Industry Regulator or the Technical Regulator may establish other advisory committees to provide advice on specified aspects of the administration of this Act.

Insertion of Part 3 Division A1

16. The following Division is inserted before Division 1 of Part 3 of the principal Act:

DIVISION A1—DECLARATION AS REGULATED INDUSTRY**Declaration as regulated industry**

14D. The electricity supply industry is declared to be a regulated industry for the purposes of the *Independent Industry Regulator Act 1999*.

Amendment of s. 15—Requirement for licence

17. Section 15 of the principal Act is amended—

- (a) by striking out the penalty provision from subsection (1) and substituting the following penalty provision:

Maximum penalty: \$250 000.;

- (b) by inserting after paragraph (c) of subsection (2) the following paragraph:

(ca) system control over a power system; or;

- (c) by inserting after subsection (2) the following subsection:

(3) Nothing in this section requires NEMMCO (within the meaning of the *National Electricity (South Australia) Law*) to hold a licence.

Amendment of s. 16—Application for licence**18. Section 16 of the principal Act is amended—**

- (a) by striking out from subsection (1) "or renewal";
- (b) by striking out from subsection (1)(a) "Technical Regulator" twice occurring and substituting, in each case, "Industry Regulator";
- (c) by striking out from subsection (2) "Technical Regulator" and substituting "Industry Regulator";
- (d) by striking out from subsection (3) "Technical Regulator" and substituting "Industry Regulator";
- (e) by striking out from subsection (3) "he or she" and substituting "the Industry Regulator";
- (f) by striking out from subsection (4) "Technical Regulator" twice occurring and substituting, in each case, "Industry Regulator".

Amendment of s. 17—Consideration of application**19. Section 17 of the principal Act is amended—**

- (a) by striking out from subsection (1) "Technical Regulator" and substituting "Industry Regulator";
- (b) by striking out from subsection (2) "Subject to this section, the Technical Regulator" and substituting "The Industry Regulator must have regard to the general factors specified in Part 2 of the *Independent Industry Regulator Act 1999* and, subject to this section,";
- (c) by striking out paragraph (a) of subsection (2) and substituting the following paragraphs:
 - (a) the applicant is a suitable person to hold the licence; and
 - (ab) the issue of the licence will not result in a breach of the cross-ownership rules; and
 - (ac) the issue of the licence will not result in the same person holding both a licence authorising the operation of a distribution network and a licence authorising retailing of electricity; and
- (d) by inserting after paragraph (d) of subsection (2) the following paragraph:
 - (da) in the case of a licence authorising system control over a power system—the applicant will be able to adequately exercise system control functions; and;
- (e) by striking out from subsection (3) "Technical Regulator" and substituting "Industry Regulator";
- (f) by striking out from subsection (4) "Technical Regulator" twice occurring and substituting, in each case, "Industry Regulator";
- (g) by striking out from subsection (4) "his or her" and substituting "the Industry Regulator's";

- (h) by striking out from subsection (4) "he or she" and substituting "the Industry Regulator";
- (i) by striking out from subsection (4) "in the name of the agent and the principal" and substituting "to the agent and the principal to be held by them jointly";
- (j) by striking out from subsection (5) "Technical Regulator" and substituting "Industry Regulator";
- (k) by striking out from subsection (5) "he or she" and substituting "the Industry Regulator".

Insertion of s. 17A

20. The following section is inserted after section 17 of the principal Act:

Licences may be held jointly

17A. (1) A licence may be held jointly by two or more persons.

(2) If a licence is held jointly by two or more persons, those persons are jointly and severally liable to meet requirements imposed under this Act or the *Independent Industry Regulator Act 1999*.

Substitution of s. 19

21. Section 19 of the principal Act is repealed and the following section is substituted:

Term of licence

19. A licence may be issued for an indefinite period or for a term specified in the licence.

Amendment of s. 20—Licence fees and returns

22. Section 20 of the principal Act is amended—

- (a) by striking out from subsection (1) "or renewal";
- (b) by striking out from subsection (1) "Technical Regulator" and substituting "Industry Regulator";
- (c) by striking out from subsection (2) "Technical Regulator" wherever occurring and substituting, in each case, "Industry Regulator";
- (d) by striking out subsection (3) and substituting the following subsection:

(3) The annual licence fee for a licence is the fee fixed, from time to time, by the Minister in respect of that licence as an amount that the Minister considers to be a reasonable contribution towards administrative costs.;
- (e) by striking out from subsection (4) "Technical Regulator" twice occurring and substituting, in each case, "Industry Regulator";
- (f) by striking out from subsection (5) "Technical Regulator" twice occurring and substituting, in each case, "Industry Regulator";

(g) by inserting in subsection (7) before the definition of "holder" the following definition:

"administrative costs" means—

- (a) the costs of administration of this Act; and
- (b) any costs of administration of the *Independent Industry Regulator Act 1999* relating to the electricity supply industry; and
- (c) the costs of the Electricity Supply Industry Planning Council; and
- (d) other costs prescribed by regulation;.

Substitution of ss. 21 to 24

23. Sections 21 to 24 (inclusive) of the principal Act are repealed and the following sections are substituted:

Licence conditions

21. (1) The Industry Regulator must, on the issue of a licence, make the licence subject to conditions determined by the Industry Regulator—

- (a) requiring compliance with applicable codes or rules made under the *Independent Industry Regulator Act 1999* as in force from time to time; and
- (b) requiring compliance with specified technical or safety requirements or standards; and
- (c) relating to the electricity entity's financial or other capacity to continue operations under the licence; and
- (d) if the cross-ownership rules apply to the electricity entity—
 - (i) requiring the electricity entity to comply with the cross-ownership rules; and
 - (ii) requiring the constitution of the electricity entity to contain provisions for the divestiture of shares for the purposes of rectifying a breach of the cross-ownership rules; and
 - (iii) requiring the electricity entity to notify the Industry Regulator about any matters relevant to the enforcement of the cross-ownership rules; and
- (e) requiring the electricity entity to have all or part of the operations authorised by the licence audited and to report the results of the audit to the Industry Regulator; and
- (f) requiring the electricity entity to notify the Industry Regulator about changes to officers and, if applicable, major shareholders of the entity; and
- (g) requiring the electricity entity to provide, in the manner and form determined by the Industry Regulator, such other information as the Industry Regulator may from time to time require; and

- (h) requiring the electricity entity to comply with the requirements of any scheme approved and funded by the Minister for the provision by the State of customer concessions or the performance of community service obligations by electricity entities.

(2) The Industry Regulator must, on the issue of a licence, make the licence subject to further conditions that the Industry Regulator is required by regulation to impose on the issue of such a licence.

(3) The Industry Regulator may, on the issue of a licence, make the licence subject to further conditions considered appropriate by the Industry Regulator.

(4) The Industry Regulator must provide to the Minister any information that the Minister requires for the purposes of the administration of a scheme for the provision by the State of customer concessions, or the performance of community service obligations, relating to the sale or supply of electricity.

Licences authorising generation of electricity

22. (1) The Industry Regulator must, on the issue of a licence authorising the generation of electricity, make the licence subject to conditions determined by the Industry Regulator—

- (a) requiring compliance with directions of the system controller; and
- (b) requiring the electricity entity not to do anything affecting the compatibility of the entity's electricity generating plant with any transmission or distribution network so as to prejudice public safety or the security of the power system of which the generating plant forms a part; and
- (c) requiring the electricity entity—
 - (i) to prepare and periodically revise a safety and technical management plan dealing with matters prescribed by regulation; and
 - (ii) to obtain the approval of the Industry Regulator (which may only be given by the Industry Regulator on the recommendation of the Technical Regulator) to the plan and any revision; and
 - (iii) to comply with the plan as approved from time to time; and
 - (iv) to audit from time to time the entity's compliance with the plan and report the results of those audits to the Technical Regulator; and
- (d) requiring the electricity entity to provide to the Electricity Supply Industry Planning Council such information as it may reasonably require for the performance of its functions; and
- (e) requiring the electricity entity—
 - (i) to grant to each electricity entity holding a licence authorising the operation of a transmission or distribution network rights to use or have access to the entity's electricity generating plant that are necessary for the purpose of ensuring the proper integrated

operation of the State's power system and the proper carrying on of the operations authorised by the entity's licence; and

- (ii) in the absence of agreement as to the terms on which such rights are to be granted, to comply with any determination of the Industry Regulator as to those terms; and
 - (iii) to comply with any code provisions in force from time to time under the *Independent Industry Regulator Act 1999* establishing a scheme for the resolution of disputes in relation to such rights; and
- (f) requiring the electricity entity to maintain insurance against any liability for causing a bushfire and to provide the Industry Regulator with a certificate of the insurer or the insurance broker by whom the insurance was arranged certifying (in a manner approved by the Industry Regulator) that the insurance is adequate and appropriate given the nature of the operations carried on under the entity's licence and the risks entailed in those operations.

(2) This section does not limit the matters that may be dealt with by terms or conditions of a licence authorising the generation of electricity.

Licences authorising operation of transmission or distribution network

23. (1) The Industry Regulator must, on the issue of a licence authorising the operation of a transmission or distribution network, make the licence subject to conditions determined by the Industry Regulator—

- (a) requiring compliance with directions of the system controller; and
- (b) requiring the electricity entity not to do anything affecting the compatibility of the entity's transmission or distribution network with any electricity generating plant or transmission or distribution network so as to prejudice public safety or the security of the power system of which the transmission or distribution network forms a part; and
- (c) requiring the electricity entity—
 - (i) to prepare and periodically revise a safety and technical management plan dealing with matters prescribed by regulation; and
 - (ii) to obtain the approval of the Industry Regulator (which may only be given by the Industry Regulator on the recommendation of the Technical Regulator) to the plan and any revision; and
 - (iii) to comply with the plan as approved from time to time; and
 - (iv) to audit from time to time the entity's compliance with the plan and report the results of those audits to the Technical Regulator; and
- (d) requiring the electricity entity to provide to the Electricity Supply Industry Planning Council such information as it may reasonably require for the performance of its functions; and

- (e) requiring the electricity entity to maintain specified accounting records and to prepare accounts according to specified principles; and
- (f) requiring the electricity entity to inform persons seeking or in receipt of network services of the terms on which the services are provided (including the charges for the services) and of any changes in those terms; and
- (g) requiring the electricity entity to carry out work to locate powerlines underground in accordance with a program established under Part 5A; and
- (h) requiring the electricity entity to comply with—
 - (i) specified provisions for or relating to the granting to other electricity entities of rights to use or have access to the entity's transmission or distribution network (on non-discriminatory terms) for the transmission or distribution of electricity by the other entities; and
 - (ii) any scheme that the Industry Regulator may establish by a code made under the *Independent Industry Regulator Act 1999* for the resolution of disputes in relation to such rights; and
- (i) requiring the electricity entity to comply with—
 - (i) specified provisions for or relating to the granting to all electricity entities and customers of a class specified in the condition of rights to use or have access to the entity's transmission or distribution network (on non-discriminatory terms) to obtain electricity from the network; and
 - (ii) any scheme that the Industry Regulator may establish by a code made under the *Independent Industry Regulator Act 1999* for the resolution of disputes in relation to such rights; and
- (j) requiring the electricity entity to comply with code provisions as in force from time to time (which the Industry Regulator must make under the *Independent Industry Regulator Act 1999*) establishing a scheme—
 - (i) for other bodies to use or have access to the entity's transmission or distribution network for telecommunications purposes (subject to requirements as to technical feasibility and preservation of visual amenity); and
 - (ii) for the resolution of disputes in relation to such use or access by a person other than the Industry Regulator who is appointed by the Industry Regulator; and
- (k) requiring the electricity entity to participate in an ombudsman scheme the terms and conditions of which are approved by the Industry Regulator; and
- (l) requiring the electricity entity to maintain insurance against any liability for causing a bushfire and to provide the Industry Regulator with a certificate of the insurer or the insurance broker by whom the insurance was arranged

certifying (in a manner approved by the Industry Regulator) that the insurance is adequate and appropriate given the nature of the operations carried out under the entity's licence and the risks entailed in those operations; and

- (m) in the case of a licence authorising the operation of a transmission network—
- (i) requiring the business of the operation of the transmission network authorised by the licence to be kept separate from any other business of the electricity entity or any other person in the manner and to the extent specified in the conditions; and
 - (ii) requiring the electricity entity—
 - (A) to grant to each electricity entity holding a licence authorising the generation of electricity or the operation of a distribution network rights to use or have access to the entity's transmission network that are necessary for the purpose of ensuring the proper integrated operation of the State's power system and the proper carrying on of the operations authorised by the entity's licence; and
 - (B) in the absence of agreement as to the terms on which such rights are to be granted, to comply with any determination of the Industry Regulator as to those terms; and
 - (C) to comply with any code provisions in force from time to time under the *Independent Industry Regulator Act 1999* establishing a scheme for the resolution of disputes in relation to such rights; and
- (n) in the case of a licence authorising the operation of a distribution network—
- (i) requiring the business of the operation of the distribution network authorised by the licence to be kept separate from any other business of the electricity entity or any other person in the manner and to the extent specified in the conditions; and
 - (ii) requiring the electricity entity—
 - (A) to grant to each electricity entity holding a licence authorising the generation of electricity or the operation of a transmission network rights to use or have access to the entity's distribution network that are necessary for the purpose of ensuring the proper integrated operation of the State's power system and the proper carrying on of the operations authorised by the entity's licence; and
 - (B) in the absence of agreement as to the terms on which such rights are to be granted, to comply with any determination of the Industry Regulator as to those terms; and

- (C) to comply with any code provisions in force from time to time under the *Independent Industry Regulator Act 1999* establishing a scheme for the resolution of disputes in relation to such rights; and
- (iii) requiring the electricity entity to establish customer consultation processes of a specified kind; and
 - (iv) requiring or relating to standard contractual terms and conditions to apply to the supply of electricity to non-contestable customers or customers of a prescribed class; and
 - (v) requiring the electricity entity to comply with code provisions as in force from time to time (which the Industry Regulator must make under the *Independent Industry Regulator Act 1999*) imposing minimum standards of service for customers that are at least equivalent to the actual levels of service for such customers prevailing during the year prior to the commencement of this section and take into account relevant national benchmarks developed from time to time, and requiring the entity to monitor and report on levels of compliance with those minimum standards; and
 - (vi) requiring the electricity entity to comply with code provisions as in force from time to time (which the Industry Regulator must make under the *Independent Industry Regulator Act 1999*) limiting the grounds on which the supply of electricity to customers may be disconnected and prescribing the process to be followed before the supply of electricity is disconnected; and
 - (vii) requiring a specified process to be followed to resolve disputes between the electricity entity and customers as to the supply of electricity; and
 - (viii) requiring the electricity entity to enter into and comply with an agreement (on terms approved from time to time by the Industry Regulator) with each person holding a licence authorising the retailing of electricity who provides services to the same customers as the entity as to the co-ordination of the provision of services to those customers; and
 - (ix) requiring the electricity entity to sell and supply electricity (on terms and conditions approved by the Industry Regulator) to customers of another electricity entity whose licence under this Act to carry on retailing of electricity is suspended or cancelled or whose right to acquire electricity from the market for wholesale trading in electricity is suspended or terminated or who has ceased to retail electricity in the State (a **retailer of last resort requirement**); and
 - (x) requiring the electricity entity—

- (A) to investigate, before it makes any significant expansion of the distribution network or the capacity of the distribution network, whether it would be cost effective to avoid or postpone such expansion by implementing measures for the reduction of demand for electricity from the network; and
- (B) to prepare and publish reports relating to such demand management investigations and measures.

(2) A condition of an electricity entity's licence imposed under subsection (1)(h) is not to be taken to require the granting to other electricity entities of rights to use or have access to the entity's transmission or distribution network for the support or use of electricity infrastructure of the other entities.

(3) A retailer of last resort requirement operates only until 1 January 2005.

(4) The obligation to sell and supply electricity to a customer imposed by a retailer of last resort requirement continues only until the end of three months from the event giving rise to the obligation or until the customer advises the electricity entity that the sale and supply is no longer required, whichever first occurs.

(5) A licence that is subject to a retailer of last resort requirement is to be taken to authorise the sale and supply of electricity in accordance with the requirement.

(6) This section does not limit the matters that may be dealt with by terms or conditions of a licence authorising the operation of a transmission or distribution network.

Licences authorising retailing

24. (1) A licence authorising the retailing of electricity must, if the Minister so determines and despite section 7 of the *Independent Industry Regulator Act 1999*, confer on the entity an exclusive right to sell electricity to non-contestable customers within a specified area.

(2) The Industry Regulator must, on the issue of a licence authorising the retailing of electricity, make the licence subject to conditions determined by the Industry Regulator—

- (a) requiring, if the holder of the licence is a related body corporate (within the meaning of the *Corporations Law*) in relation to the holder of a licence authorising the operation of a distribution network, the business of the retailing of electricity authorised by the licence to be kept separate from the business of the operation of the distribution network in the manner and to the extent specified in the conditions; and
- (b) if the electricity entity sells electricity to non-contestable customers, requiring the electricity entity to maintain specified accounting records and to prepare accounts according to specified principles; and
- (c) requiring the electricity entity to establish customer consultation processes of a specified kind; and
- (d) requiring the electricity entity, until 31 December 2002, to—

- (i) request its contestable customers to give written consent to the electricity entity providing their names, addresses and other contact details from time to time to the Industry Regulator and the Industry Regulator providing that information to other electricity entities holding licences authorising the retailing of electricity; and
 - (ii) provide copies of such consents and the information relating to the consenting customers to the Industry Regulator; and
- (e) if the electricity entity sells electricity to non-contestable customers—
 - (i) requiring the electricity entity to take reasonable steps to identify when its non-contestable customers will or could become contestable customers and to give such customers at least 20 clear business days notice of that fact, together with notice of the tariffs and charges for electricity currently applicable to the customers and the names of other electricity entities that hold licences authorising the retailing of electricity; and
 - (ii) specifying the manner in which such notice must be given; and
- (f) if the electricity entity sells electricity to non-contestable customers and under the standard terms and conditions governing the sale of electricity by the electricity entity at least the same level of the tariffs and charges applicable to customers as non-contestable customers will apply to the customers for a specified period after they become contestable customers—
 - (i) requiring the electricity entity to take reasonable steps to give the customers at least 20 clear business days notice of the date on which the specified period will expire; and
 - (ii) specifying the manner in which such notice must be given; and
- (g) requiring or relating to standard contractual terms and conditions to apply to the sale of electricity to non-contestable customers or customers of a prescribed class; and
- (h) requiring the electricity entity to enter into and comply with an agreement (on terms approved from time to time by the Industry Regulator) with each person holding a licence authorising the operation of a distribution network who provides services to the same customers as the entity as to the co-ordination of the provision of services to those customers; and
- (i) requiring the electricity entity to comply with code provisions as in force from time to time (which the Industry Regulator must make under the *Independent Industry Regulator Act 1999*) imposing minimum standards of service for customers that are at least equivalent to the actual levels of service for such customers prevailing during the year prior to the commencement of this section and take into account relevant national benchmarks developed from time to time, and requiring the entity to monitor and report on levels of compliance with those minimum standards; and

- (j) requiring the electricity entity to comply with code provisions as in force from time to time (which the Industry Regulator must make under the *Independent Industry Regulator Act 1999*) limiting the grounds on which the supply of electricity to customers may be discontinued or disconnected and prescribing the process to be followed before the supply of electricity is discontinued or disconnected; and
- (k) requiring a specified process to be followed to resolve disputes between the electricity entity and customers as to the sale of electricity; and
- (l) requiring the electricity entity to participate in an ombudsman scheme the terms and conditions of which are approved by the Industry Regulator; and
- (m) requiring the electricity entity—
 - (i) to investigate strategies for achieving a reduction of greenhouse gas emissions to such targets as may be set by the Environment Protection Authority from time to time or such levels as may be binding on the entity from time to time, including strategies for promoting the efficient use of electricity and the sale, as far as is commercially and technically feasible, of electricity produced through cogeneration or from sustainable sources; and
 - (ii) to prepare and publish annual reports on the implementation of such strategies.

(3) The Industry Regulator must, before issuing a licence conferring an exclusive right to sell electricity to non-contestable customers within a specified area, agreeing to the transfer of such a licence or determining or varying conditions of such a licence, consult with and have regard to the advice of—

- (a) the Commissioner for Consumer Affairs; and
- (b) the consumer advisory committee established under Part 2.

(4) This section does not limit the matters that may be dealt with by terms or conditions of a licence authorising the retailing of electricity.

Licences authorising system control

24A. (1) The Industry Regulator must, on the issue of a licence authorising system control over a power system, make the licence subject to conditions determined by the Industry Regulator requiring the business of system control authorised by the licence to be kept separate from any other business of the electricity entity or any other person in the manner and to the extent specified in the conditions.

(2) This section does not limit the matters that may be dealt with by terms or conditions of a licence authorising system control over a power system.

Licence conditions and National Electricity Code

24B. Despite the preceding provisions of this Part, the Industry Regulator is not to impose a condition on a licence if the Industry Regulator is satisfied that the condition would duplicate, or be inconsistent with, regulatory requirements under the National Electricity Code.

Amendment of s. 25—Offence to contravene licence conditions

24. Section 25 of the principal Act is amended—

- (a) by striking out the penalty provision from subsection (1) and substituting the following penalty provision:

Maximum penalty: \$250 000.;

- (b) by striking out from subsection (2) "Technical Regulator" and substituting "Industry Regulator".

Repeal of s. 26

25. Section 26 of the principal Act is repealed.

Amendment of s. 27—Variation of licence

26. Section 27 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) The Industry Regulator may vary the terms or conditions of an electricity entity's licence by written notice to the entity as the Industry Regulator considers appropriate (but not so as to remove a condition that the Industry Regulator is required by this Act to impose on such a licence).

Substitution of s. 28

27. Section 28 of the principal Act is repealed and the following sections are substituted:

Transfer of licence

28. (1) A licence may only be transferred with the Industry Regulator's agreement.

(2) The Industry Regulator may impose conditions on the transfer of a licence, or vary the terms and conditions of the licence on its transfer.

(3) The Industry Regulator must not agree to the transfer of a licence if the transferee would not be entitled to the issue of the licence.

(4) An application for agreement to the transfer of a licence must—

(a) be made by the transferor with the consent of the transferee to the Industry Regulator in a form approved by the Industry Regulator; and

(b) contain the information specified in the form.

(5) The applicant must pay to the Industry Regulator an application fee fixed by the Minister of an amount that the Minister considers appropriate to meet the reasonable costs of determining the application.

(6) The applicant must give the Industry Regulator further relevant information requested by the Industry Regulator.

Consultation with consumer bodies

28A. The Industry Regulator may, before issuing a licence, agreeing to the transfer of a licence or determining or varying conditions of a licence, consult with and have regard to the advice of—

- (a) the Commissioner for Consumer Affairs; and
- (b) the consumer advisory committee established under Part 2.

Notice of licence decisions

28B. (1) The Industry Regulator must give an applicant for a licence, or for agreement to the transfer of a licence, written notice of the Industry Regulator's decision on the application.

(2) The Industry Regulator must give the holder of a licence written notice of any decision by the Industry Regulator affecting the terms or conditions of the licence.

Amendment of s. 29—Surrender of licence

28. Section 29 of the principal Act is amended by striking out "Technical Regulator" wherever occurring and substituting, in each case, "Industry Regulator".

Amendment of s. 30—Register of licences

29. Section 30 of the principal Act is amended—

- (a) by striking out from subsection (1) "Technical Regulator" and substituting "Industry Regulator";
- (b) by striking out from subsection (3) "on payment of a fee fixed by the Technical Regulator" and substituting "without payment of a fee".

Substitution of ss. 31, 32 and 33

30. Sections 31, 32 and 33 of the principal Act are repealed and the following section is substituted:

Functions and powers of system controller

31. (1) Subject to the regulations, a system controller for a power system has the function of monitoring and controlling the operation of the power system with a view to ensuring that the system operates safely and reliably.

(2) A system controller for a power system has, in carrying out the system controller's functions under this Act—

- (a) power to issue directions to electricity entities that are engaged in the operation of the power system, or contribute electricity to, or take electricity from, the power system; and
 - (b) the other powers conferred by regulation.
- (3) Without limiting subsection (2)(a), the directions may include directions—
- (a) to switch off or reroute a generator;
 - (b) to call equipment into service;

- (c) to take equipment out of service;
- (d) to commence operation or maintain, increase or reduce active or reactive power output;
- (e) to shut down or vary operation;
- (f) to shed or restore customer loads.

(4) If an electricity entity refuses or fails to comply with a direction of a system controller, the system controller may—

- (a) authorise a person to take the action required by the direction or to cause the action to be taken; and
- (b) give the electricity entity any directions the system controller considers necessary to facilitate the taking of the action.

(5) Costs and expenses incurred in taking action or causing action to be taken under subsection (4) are recoverable from the electricity entity by the system controller as a debt in a court of competent jurisdiction.

(6) The functions and powers of a system controller for a power system operated in the National Electricity Market (*ie* the market regulated by the *National Electricity Law*) may only be performed or exercised in a manner that is consistent with the *National Electricity (South Australia) Law* and the National Electricity Code.

Substitution of Part 3 Division 2A

31. Division 2A of Part 3 of the principal Act is repealed and the following Division is substituted:

DIVISION 2A—PRICE REGULATION

Price regulation by determination of Industry Regulator

35A. (1) The Industry Regulator may make a determination regulating prices, conditions relating to prices and price-fixing factors for—

- (a) the sale and supply of electricity to non-contestable customers or customers of a prescribed class;
- (b) the sale and supply of electricity to customers of another electricity entity as required by a retailer of last resort requirement (*see section 23(1)(n)(ix)*);
- (c) subject to the *National Electricity (South Australia) Law* and the National Electricity Code—network services;
- (d) other goods and services in the electricity supply industry specified by the Treasurer by notice in the *Gazette*.

(2) In making a determination, the Industry Regulator must (in addition to having regard to the factors specified in the *Independent Industry Regulator Act 1999*) have regard to the principle that the prices charged to small customers for network services in relation to the transmission network in South Australia and the distribution networks that are connected to it should be at the same rates for all small customers regardless of their location.

(3) The Treasurer may, by further notice in the *Gazette*, vary or revoke a notice under subsection (1)(d).

(4) In this section—

"small customer" means a customer with electricity consumption levels (in respect of a single site) of less than 160 MW.h per year.

Initial electricity pricing order by Treasurer

35B. (1) The Treasurer may issue an order (an **electricity pricing order**) regulating prices, conditions relating to prices and price-fixing factors for—

- (a) the sale and supply of electricity to non-contestable customers or customers of a prescribed class;
- (b) the sale and supply of electricity to customers of another electricity entity as required by a retailer of last resort requirement (*see section 23(1)(n)(ix)*);
- (c) subject to the *National Electricity (South Australia) Law* and the National Electricity Code—network services;
- (d) other goods and services in the electricity supply industry.

(2) The Treasurer must not issue an electricity pricing order after a date fixed by proclamation.

(3) An electricity pricing order may regulate prices, conditions relating to prices or price-fixing factors in any manner the Treasurer considers appropriate, including—

- (a) fixing a price or the rate of increase or decrease in a price;
- (b) fixing a maximum price or maximum rate of increase or minimum rate of decrease in a maximum price;
- (c) fixing an average price for specified goods or services or an average rate of increase or decrease in an average price;
- (d) specifying pricing policies or principles;
- (e) specifying an amount determined by reference to a general price index, the cost of production, a rate of return on assets employed or any other specified factor;
- (f) specifying an amount determined by reference to quantity, location, period or other specified factor relevant to the supply of specified goods or services;

- (g) fixing a maximum revenue, or maximum rate of increase or minimum rate of decrease in maximum revenue, in relation to specified goods or services.

(4) An electricity pricing order may provide that a calculation is to be performed, or a matter is to be determined, by the Industry Regulator in a manner specified by the order.

(5) A determination of the Industry Regulator for the purposes of an electricity pricing order will not, except as provided in the order, be taken to be a determination for the purposes of the *Independent Industry Regulator Act 1999*.

(6) An electricity pricing order may require an electricity entity to provide information to other electricity entities, customers or others, or generally publish information, relating to prices, conditions relating to prices or price-fixing factors.

(7) An electricity pricing order—

(a) takes effect on a date specified in the order; and

(b) cannot be varied or revoked.

(8) Notice of the making of an electricity pricing order must be published—

(a) in the *Gazette*; and

(b) in a newspaper circulating generally in the State.

(9) The notice must include a brief description of the nature and effect of the electricity pricing order and state how a copy of the order may be inspected or purchased.

(10) The Treasurer must—

(a) send a copy of an electricity pricing order to each licensed entity to which the order applies; and

(b) ensure that copies of the order are available for inspection and purchase by members of the public.

(11) An electricity entity must comply with an electricity pricing order or part of an electricity pricing order that applies to the entity.

(12) The Industry Regulator must—

(a) perform any functions that an electricity pricing order contemplates will be performed by the Industry Regulator for the purposes of the order; and

(b) enforce an electricity pricing order in the same way as if it were a determination of the Industry Regulator under this Division.

(13) The Industry Regulator's powers under this Division and the *Independent Industry Regulator Act 1999* are restricted to the extent specified in an electricity pricing order.

(14) In this section—

"price" includes a price range.

Amendment of heading to Part 3 Division 3

32. The heading to Division 3 of Part 3 of the principal Act is amended by inserting "SALE OR" before "SUPPLY".

Amendment of s. 36—Standard terms and conditions for sale or supply

33. Section 36 of the principal Act is amended—

- (a) by striking out from subsection (1) "governing the supply of electricity" and substituting "governing the sale or supply of electricity (including the service of making connections to a transmission or distribution network)";
- (b) by inserting in subsection (2) "selling or" before "supplying";
- (c) by inserting after paragraph (c) of subsection (3) the following paragraph:
 - (d) will, if they vary or exclude the operation of section 78(1) of the *National Electricity Law*, form an agreement between the electricity entity and each of the customers to which they are expressed to apply for the purposes of that section.

Insertion of Part 3 Division 3A

34. The following Division is inserted after Division 3 of Part 3 of the principal Act:

DIVISION 3A—PROTECTION OF PROPERTY IN INFRASTRUCTURE

Electricity infrastructure does not merge with land

36A. Subject to any agreement in writing to the contrary, the ownership of electricity infrastructure constructed or installed for operation by an electricity entity is not affected by its affixation or annexation to land.

Prevention of dismantling of electricity infrastructure in execution of judgment

36B. (1) Electricity infrastructure owned or operated by an electricity entity cannot be dismantled in execution of a judgment.

(2) This section does not prevent the sale of an electricity generating plant or a transmission or distribution network as a going concern in execution of a judgment.

Amendment of s. 37—Suspension or cancellation of licences

35. Section 37 of the principal Act is amended—

- (a) by striking out from subsection (1) "Technical Regulator" and substituting "Industry Regulator";
- (b) by inserting in subsection (1)(b) "condition of the licence or any other" after "contravention of a";
- (c) by inserting in subsection (1)(d) "or change of circumstances" after "default";

- (d) by striking out from subsection (2) "Technical Regulator" and substituting "Industry Regulator";
- (e) by striking out from subsection (3) "Technical Regulator" wherever occurring and substituting, in each case, "Industry Regulator".

Amendment of heading to Part 3 Division 5

36. The heading to Division 5 of Part 3 of the principal Act is amended by striking out "TECHNICAL REGULATOR'S" and substituting "INDUSTRY REGULATOR'S".

Amendment of s. 38—Power to take over operations

37. Section 38 of the principal Act is amended—

- (a) by inserting in subsection (1)(a) "a condition of its licence or any other requirement of" after "contravenes";
- (b) by striking out from subsection (1)(b) "Technical Regulator's" and substituting "Industry Regulator's";
- (c) by striking out from subsection (2) "Technical Regulator" and substituting "Industry Regulator";
- (d) by striking out from subsection (3)(a) "Technical Regulator" and substituting "Industry Regulator".

Amendment of s. 39—Appointment of operator

38. Section 39 of the principal Act is amended—

- (a) by striking out from subsection (1) "Technical Regulator" and substituting "Industry Regulator";
- (b) by inserting after subsection (2) the following subsection:

(2a) The operator must comply with any applicable provisions of the *National Electricity (South Australia) Law* and the National Electricity Code.;

- (c) by striking out the penalty provision from subsection (5) and substituting the following penalty provision:

Maximum penalty: \$250 000.;

- (d) by striking out the penalty provision from subsection (6) and substituting the following penalty provision:

Maximum penalty: \$250 000.

Repeal of Part 3 Division 6

39. Division 6 of Part 3 of the principal Act is repealed.

Amendment of s. 41—Appointment of electricity officers

40. Section 41 of the principal Act is amended by striking out from subsection (1) "subject to the conditions of the entity's licence" and substituting "subject to conditions determined by the Minister".

Amendment of s. 43—Electricity officer's identity card

41. Section 43 of the principal Act is amended—

- (a) by striking out from subsection (2) "Technical Regulator" and substituting "Minister";
- (b) by striking out from subsection (3) "21" and substituting "two".

Amendment of s. 45—Entry on land to conduct surveys, etc.

42. Section 45 of the principal Act is amended—

- (a) by striking out from subsection (1) "Technical Regulator's authorisation" and substituting "authorisation of the Minister";
- (b) by striking out from subsection (2) "Technical Regulator" twice occurring and substituting, in each case, "Minister";
- (c) by striking out from subsection (3) "Technical Regulator's authorisation" and substituting "authorisation of the Minister";
- (d) by striking out from subsection (3)(c) "Technical Regulator's".

Amendment of s. 47—Power to carry out work on public land

43. Section 47 of the principal Act is amended—

- (a) by inserting after subsection (2) the following subsection:

(2a) This section does not apply to work of a kind that may be carried out under the statutory easement under Schedule 1 of the *Electricity Corporations (Restructuring and Disposal) Act 1999*;

- (b) by striking out subsections (11) and (12).

Amendment of s. 48—Entry under easements for purposes related to infrastructure

44. Section 48 of the principal Act is amended—

- (a) by striking out subsection (1);
- (b) by striking out from subsection (2) "under this section" and substituting "pursuant to rights conferred on an electricity entity by a statutory or other easement relating to electricity infrastructure situated on the land";
- (c) by striking out from subsection (4) "under this section" and substituting "referred to in this section";
- (d) by striking out subsection (5);
- (e) by striking out from subsection (7) "under this section" and substituting "under a warrant or by force in an emergency".

Insertion of s. 48A

45. The following section is inserted after section 48 of the principal Act:

Easements and access to infrastructure for data transmission and telecommunications

48A. (1) Where electricity infrastructure owned or operated by an electricity entity is situated on land that does not belong to the entity, any powers or rights that the entity has under this Act or pursuant to a statutory or other easement for the purposes of installing, operating and carrying out work relating to electricity infrastructure on that land will be taken also to be exercisable for the purposes of—

- (a) installing telecommunications cables or equipment by attaching it to or incorporating it in the electricity infrastructure on the land; and
- (b) operating and carrying out work relating to telecommunications cables or equipment so installed; and
- (c) operating the electricity infrastructure on the land for telecommunications.

(2) Powers and rights conferred on an electricity entity under subsection (1) will also, with the consent of the electricity entity, be exercisable by another body in the same manner and subject to the same conditions as would apply if the other body were the electricity entity and persons appointed by the other body subject to conditions determined by the Minister were electricity officers.

(3) This section has effect despite the *Real Property Act 1886* or any other law.

Amendment of s. 50—Entry to read meters, etc.

46. Section 50 of the principal Act is amended by inserting "sold or" before "supplied".

Amendment of s. 53—Electricity entity may cut off electricity supply to avert danger

47. Section 53 of the principal Act is amended by striking out from subsection (2) "Country Fire Services Board" and substituting "Country Fire Service Board".

Amendment of s. 58—Regulations in respect of vegetation near powerlines

48. Section 58 of the principal Act is amended by striking out from subsection (1) "with the concurrence of the Minister for the Environment and Natural Resources" and substituting "after consulting with the Minister responsible for the administration of the *Environment Protection Act 1993*".

Insertion of Part 5A

49. The following Part is inserted after Part 5 of the principal Act:

**PART 5A
UNDERGROUNDING OF POWERLINES**

Program for undergrounding of powerlines

58A. (1) The Minister may prepare periodic programs for work to be carried out by an electricity entity for the undergrounding of powerlines forming part of a transmission or distribution network operated by the entity.

(2) Undergrounding work may not be included in a program unless—

- (a) the council of each area concerned agrees to contribute to the cost of the work in its area on the basis determined by the Minister; or
- (b) the Minister determines, in relation to particular work, that the council need not contribute to the cost of the work.

(3) In preparing programs, the Minister must ensure that the total cost of the work to be carried out at the expense of electricity entities in each financial year (as estimated by the Minister) is not less than an amount fixed or determined under the regulations for that financial year.

(4) The Minister must consult with the Local Government Association of South Australia before a regulation is made for the purposes of subsection (3).

(5) In preparing a program, the Minister must consult with, and seek proposals and submissions from, councils, electricity entities, bodies (other than councils) responsible for the care, control or management of roads and other persons as the Minister considers appropriate.

(6) The Minister must give a copy of a program to each electricity entity required to undertake work in accordance with the program at least six months before the commencement of the period to which the program relates.

(7) The Minister may, at the request or with the consent of an electricity entity required to undertake work in accordance with a program, vary the requirements imposed on the entity under the program.

(8) Before varying a program, the Minister must consult with councils, electricity entities, bodies (other than councils) responsible for the care, control or management of roads and other persons as the Minister considers appropriate.

(9) The Minister must give due consideration to matters arising from any submissions and consultations under this section.

Amendment of s. 59—Electrical installations to comply with technical requirements

50. Section 59 of the principal Act is amended by striking out the penalty provision from subsection (1) and substituting the following penalty provision:

Maximum penalty: \$50 000.

Amendment of s. 60—Responsibility of owner or operator of infrastructure or installation

51. Section 60 of the principal Act is amended by striking out the penalty provision from subsection (1) and substituting the following penalty provision:

Maximum penalty: \$250 000.

Amendment of s. 61—Electrical installation work

52. Section 61 of the principal Act is amended—

- (a) by inserting in subsection (1) "to whom this section applies" after "A person";
- (b) by striking out subsections (2) and (3) and substituting the following subsection:

(2) This section applies—

- (a) if a licensed electrical contractor or licensed building work contractor has employed or engaged a registered electrical worker to personally carry out work on an electrical installation or proposed electrical installation—to the licensed electrical contractor or licensed building work contractor; or
- (b) if a registered electrical worker who personally carries out work on an electrical installation or proposed electrical installation has not been employed or engaged to do so by a licensed electrical contractor or licensed building work contractor—to the registered electrical worker.

Amendment of s. 62—Power to require rectification, etc., in relation to infrastructure or installations

53. Section 62 of the principal Act is amended—

- (a) by striking out from subsection (2)(a) "in charge of" and substituting "that operates";
- (b) by striking out the penalty provision from subsection (4) and substituting the following penalty provision:

Maximum penalty: \$50 000.

Amendment of s. 64—Appointment of authorised officers

54. Section 64 of the principal Act is amended—

- (a) by striking out from subsection (1) "Technical Regulator" and substituting "Minister";
- (b) by striking out subsection (3) and substituting the following subsections:

(3) An authorised officer may be assigned by the Minister to assist the Industry Regulator, the Technical Regulator or both, as the Minister considers appropriate.

(4) An authorised officer will—

- (a) in the exercise of powers for the enforcement of Part 3 or Schedule 1—be subject to control and direction by the Industry Regulator;
- (b) in the exercise of powers for the enforcement of any other provisions under this Act—be subject to control and direction by the Technical Regulator.

Amendment of s. 65—Conditions of appointment

55. Section 65 of the principal Act is amended by striking out "Technical Regulator" twice occurring and substituting, in each case, "Minister".

Amendment of s. 66—Authorised officer's identity card

56. Section 66 of the principal Act is amended—

- (a) by striking out from subsection (1) "Technical Regulator" and substituting "Minister";
- (b) by striking out from subsection (3) "21" and substituting "two";
- (c) by striking out from subsection (3) "Technical Regulator" and substituting "Minister".

Amendment of s. 69—General investigative powers of authorised officers

57. Section 69 of the principal Act is amended—

- (a) by striking out from subsection (2)(b)(ii) "Technical Regulator" and substituting "Industry Regulator or Technical Regulator (as the case may be)";
- (b) by striking out from subsection (4) "the Technical Regulator" and substituting "the Regulator on whose application the order was made".

Amendment of s. 70—Disconnection of electricity supply

58. Section 70 of the principal Act is amended by striking out the penalty provision from subsection (3) and substituting the following penalty provision:

Maximum penalty: \$50 000.

Amendment of s. 71—Power to require disconnection of cathodic protection system

59. Section 71 of the principal Act is amended by striking out the penalty provision from subsection (3) and substituting the following penalty provision:

Maximum penalty: \$50 000.

Amendment of s. 72—Power to make infrastructure or installation safe

60. Section 72 of the principal Act is amended—

- (a) by striking out from subsection (2)(a) "in charge of" and substituting "that operates";
- (b) by striking out the penalty provision from subsection (4) and substituting the following penalty provision:

Maximum penalty: \$50 000.

Amendment of s. 73—Power to require information

61. Section 73 of the principal Act is amended by striking out the penalty provision from subsection (3) and substituting the following penalty provision:

Maximum penalty: \$20 000.

Substitution of Part 8

62. Part 8 of the principal Act is repealed and the following Part is substituted:

**PART 8
REVIEWS AND APPEALS**

Interpretation

74. In this Part—

"relevant Regulator" means—

- (a) in relation to a decision under Part 3 or Schedule 1—the Industry Regulator; and
- (b) in any other case—the Technical Regulator.

Review of decisions by relevant Regulator

75. (1) An application may be made to the relevant Regulator—

- (a)* by an applicant for the issue or variation of the terms or conditions of a licence under Part 3, or for agreement to the transfer of such a licence, for review of the decision of the Industry Regulator to refuse the application; or
- (b)* by an electricity entity for review of a decision of the Industry Regulator under Part 3 to suspend or cancel the entity's licence or to vary the terms or conditions of the entity's licence; or
- (c)* by a person to whom a rectification order has been given under Schedule 1 by the Industry Regulator for review of the decision to give the order; or
- (d)* by a person to whom a direction has been given under this Act by the Technical Regulator or an authorised officer (other than a direction given by the Technical Regulator under Part 5) for review of the decision to give the direction; or
- (e)* by a person affected by the decision for review of the decision of an authorised officer or an electricity officer to disconnect an electricity supply or to disconnect a cathodic protection system.

(2) An application for review must—

- (a)* be in writing; and
- (b)* set out the decision to which the application relates; and
- (c)* set out in detail the grounds on which the applicant seeks review and the decision sought on the review; and
- (d)* be accompanied by any information that the applicant considers should be taken into account by the relevant Regulator on the review; and
- (e)* be lodged with the relevant Regulator—
 - (i)* in the case of a decision relating to a licence or application for a licence—within 10 working days after written notice of the decision is given to the electricity entity or applicant;
 - (ii)* in the case of a decision to give a rectification order—within 10 working days after the order is given;
 - (iii)* in the case of a decision to give a direction—within 10 working days after the direction is given;
 - (iv)* in the case of a decision to disconnect an electricity supply or cathodic protection system—within 10 working days after notice of the disconnection is given or, if notice is not given, within 10 working days after the supply or system is disconnected.

(3) The relevant Regulator may stay the operation of the decision to which the application relates.

(4) A review must be decided within four weeks of the application being lodged with the relevant Regulator.

(5) If a review is not decided within that period, the relevant Regulator is to be taken to have confirmed the decision.

(6) After considering the application, the relevant Regulator may confirm, amend or substitute the decision.

(7) The relevant Regulator must give the applicant written notice of the relevant Regulator's decision, and the reasons for the decision, on the review.

Appeal

76. (1) An applicant for review who is dissatisfied with a decision of the relevant Regulator on the review under this Part may appeal against the decision to the Administrative and Disciplinary Division of the District Court (the Court).

(2) Except on an appeal limited to a question of law, the Court must sit with experts selected in accordance with Schedule 1A.

(3) An appeal must be made within 10 working days after receipt of the written notice of the decision appealed against or, if the relevant Regulator failed to make a decision on the review within the allowed period, within 10 working days after the end of that period.

(4) The relevant Regulator or the Court may stay the operation of—

(a) the relevant Regulator's decision that is the subject of the appeal; or

(b) the original decision that was the subject of the review,

(as the case may require).

(5) On an appeal, the Court may—

(a) confirm the decision under appeal; or

(b) return the matter to the original decision maker with directions the Court considers appropriate.

(6) An appeal under the *District Court Act 1991* will lie against a decision of the Court under this section on a question of law (but not on a question of fact).

Minister's power to intervene

77. The Minister may intervene, personally or by counsel or other representative, in a review or appeal under this Part for the purpose of introducing evidence, or making submissions, on any question relevant to the public interest.

Substitution of s. 80

63. Section 80 of the principal Act is repealed and the following sections are substituted:

Power of exemption

80. (1) The Industry Regulator may, with the approval of the Minister, grant an exemption from Part 3 or Schedule 1, or specified provisions of Part 3 or Schedule 1, on terms and conditions the Industry Regulator considers appropriate.

(2) If the Industry Regulator exempts a person from the requirement to hold a licence under Part 3, the Industry Regulator may (without limiting subsection (1)) by conditions of the exemption require that the person is to be treated as an electricity entity for the purposes of specified provisions of this Act.

(3) Except as otherwise provided in the exemption, an exemption under subsection (1) may be varied or revoked by the Industry Regulator by notice in writing.

(4) The Technical Regulator may grant an exemption from Part 6, or specified provisions of that Part, on terms and conditions the Technical Regulator considers appropriate.

(5) Except as otherwise provided in the exemption, an exemption under subsection (4) may be varied or revoked by the Technical Regulator by notice in writing.

Register of exemptions

80A. (1) The Industry Regulator and the Technical Regulator must each keep a register of exemptions granted by him or her under this Act.

(2) A register kept under this section must include the terms and conditions of each exemption recorded in it.

(3) A person may, without payment of a fee, inspect a register kept under this section.

Amendment of s. 81—Obligation to comply with conditions of exemption

64. Section 81 of the principal Act is amended by striking out the penalty provision and substituting the following penalty provision:

Maximum penalty: \$50 000.

Insertion of s. 81A

65. The following section is inserted after section 81 of the principal Act:

Delegation by Minister

81A. (1) The Minister may delegate any of his or her functions or powers under this Act to a person or body of persons.

(2) A delegation under this section—

(a) must be in writing; and

(b) may be conditional or unconditional; and

(c) is revocable at will; and

(d) does not prevent the Minister from acting in any matter.

Amendment of s. 90—False or misleading information

66. Section 90 of the principal Act is amended by inserting in the penalty provision "or imprisonment for 2 years" after "\$10 000".

Amendment of s. 91—Statutory declarations

67. Section 91 of the principal Act is amended by striking out "Technical Regulator or Pricing Regulator" wherever occurring and substituting, in each case, "Industry Regulator or Technical Regulator".

Amendment of s. 94—Continuing offence

68. Section 94 of the principal Act is amended by striking out from subsection (1) "one-tenth" twice occurring and substituting, in each case, "one-fifth".

Amendment of s. 95—Immunity from personal liability

69. Section 95 of the principal Act is amended by striking out from subsection (1) "the Technical Regulator, a delegate of the Technical Regulator, an authorised officer or any officer or employee of the Crown" and substituting "any person".

Amendment of s. 96—Evidence

70. Section 96 of the principal Act is amended—

(a) by striking out from subsection (2) "Technical Regulator" and substituting "Industry Regulator";

(b) by striking out paragraphs (a) and (b) of subsection (2) and substituting the following paragraph:

(b) as to the giving and contents of an order, direction, delegation, exemption, approval or authorisation by the Industry Regulator,;

(c) by striking out from subsection (3) "Technical Regulator" and substituting "Industry Regulator";

(d) by inserting after subsection (3) the following subsection:

(3a) In any legal proceedings, an apparently genuine document purporting to be a certificate of the Technical Regulator certifying—

(a) as to the existence and contents of a vegetation clearance scheme; or

(b) as to the giving and contents of a direction, delegation, exemption, approval or authorisation by the Technical Regulator under this Act,

constitutes proof of the matters so certified in the absence of proof to the contrary.

Amendment of s. 97—Service

71. Section 97 of the principal Act is amended by striking out from subsection (2) "section 220" and substituting "section 109X".

Amendment of s. 98—Regulations

72. Section 98 of the principal Act is amended—

(a) by inserting in subsection (2)(a) ", sale" after "distribution";

- (b) by striking out paragraph (d) of subsection (2);
- (c) by striking out from paragraph (e) of subsection (2) "classes of";
- (d) by inserting after subsection (2) the following subsections:

(2a) If the regulations grant an exemption from the requirement to hold a licence under Part 3, the regulations may require a person exempted from the requirement to be treated as an electricity entity for the purposes of specified provisions of this Act.

(2b) The regulations may make transitional provisions in relation to successive classes of customers prescribed as contestable customers under this Act, including provisions prescribing procedures to be followed by electricity entities with such customers and creating or dealing with contractual relations between electricity entities and such customers.

(2c) The Governor may make regulations that the Governor considers necessary or expedient for the purposes of the *National Electricity (South Australia) Law* and the *National Electricity Code*;

- (e) by inserting in subsection (3)(b) ", the Industry Regulator" after "Minister".

Substitution of Sched. 1

73. Schedule 1 of the principal Act is repealed and the following Schedules are substituted:

SCHEDULE 1 *Cross-ownership Rules*

Interpretation

1. (1) In this Schedule—

"associate"—see subclause (2);

"gas pipeline licence" means a pipeline licence under the *Petroleum Act 1940* in respect of the Moomba-Adelaide pipeline as defined in the *Natural Gas Authority Act 1967*;

"gas trading company" means a body corporate carrying on the business of selling gas for the generation of electricity in South Australia declared by proclamation to be a gas trading company for the purposes of this Schedule;

"Pelican Point generation licence" means a licence under this Act authorising the generation of electricity by means of an electricity generating plant situated on the Pelican Point land (whether the plant is contained within that land or extends to adjacent land);

"the Pelican Point land" means the land comprised in Certificate of Title Register Book Volume 5660 Folio 245 and Volume 5660 Folio 246;

"share" has the same meaning as in the *Corporations Law*;

"specially issued distribution licence" means a licence issued in accordance with an order of the Minister under Part 5 of the *Electricity Corporations (Restructuring and Disposal) Act 1999* authorising the operation of a distribution network or some other licence authorising the operation of all or part of that distribution network;

"specially issued generation licence" means a licence issued in accordance with an order of the Minister under Part 5 of the *Electricity Corporations (Restructuring and Disposal) Act 1999* authorising the generation of electricity or some other licence authorising the generation of electricity by means of an electricity generating plant previously operated pursuant to the licence issued in accordance with the order of the Minister;

"specially issued retailing licence" means a licence issued in accordance with an order of the Minister under Part 5 of the *Electricity Corporations (Restructuring and Disposal) Act 1999* authorising the retailing of electricity or some other licence authorising the retailing of electricity to non-contestable customers;

"specially issued transmission licence" means a licence issued in accordance with an order of the Minister under Part 5 of the *Electricity Corporations (Restructuring and Disposal) Act 1999* authorising the operation of a transmission network or some other licence authorising the operation of all or part of that transmission network;

"State-owned company" has the same meaning as in the *Electricity Corporations (Restructuring and Disposal) Act 1999*.

(2) Two persons are associates of each other if—

- (a) one is a body corporate and the other has a substantial shareholding in the body corporate; or
- (b) one is a body corporate and the other is a director or secretary of the body corporate; or
- (c) they are related bodies corporate within the meaning of the *Corporations Law*; or
- (d) they are members of a partnership or joint venture; or
- (e) one is a trustee and the other is a beneficiary of the same trust; or
- (f) there is an agreement, arrangement or understanding (whether or not having any legal or equitable force) under which—
 - (i) one acts in accordance with the directions, instructions or wishes of the other; or
 - (ii) where one is a body corporate—the majority of the directors of the body corporate act in accordance with the directions, instructions or wishes of the other,

(other than an agreement, arrangement or understanding entered into in the ordinary course of business for the supply of goods or services); or
- (g) the regulations declare them to be associates for the purposes of this Schedule; or
- (h) a chain of associations can (by applying any one or more of the above provisions) be traced between them through another person or other persons.

(3) For the purposes of this Schedule—

- (a) a person has a substantial shareholding in a body corporate if, and only if, the person is entitled to not less than 20%, or, if a lesser percentage is prescribed by regulation, that lesser percentage, of—

- (i) if the shares in the body are not divided into two or more classes—those shares; or
 - (ii) if the shares in the body are divided into two or more classes—the shares in one of those classes;
- (b) a person's entitlement to shares is to be determined in accordance with section 609 of the *Corporations Law*.

Application and expiry of Schedule

2. (1) This Schedule—

- (a) does not apply in relation to an instrumentality of the Crown in right of this State; and
- (b) does not prevent an electricity entity from acquiring an interest in, or rights in respect of, electricity infrastructure as contemplated by conditions of a licence under this Act or as a necessary or incidental part of the operations authorised by the licence held by the entity; and
- (c) has effect subject to any other exceptions prescribed by regulation.

(2) This Schedule expires on 31 December 2002.

Cross-ownership rules

3. (1) The holder of a specially issued generation licence or an associate of the holder must not—

- (a) hold another specially issued generation licence; or
- (b) be entitled to any shares in, or be an associate of, the holder of another specially issued generation licence; or
- (c) acquire an interest in, or rights in respect of, the electricity infrastructure of the holder of another specially issued generation licence.

(2) The holder of a specially issued generation licence in respect of Torrens Island Power Station A or Torrens Island Power Station B or Northern Power Station at or near Port Augusta or Playford Power Station at or near Port Augusta or an associate of the holder must not—

- (a) hold a Pelican Point generation licence; or
- (b) be entitled to any shares in, or be an associate of, the holder of a Pelican Point generation licence; or
- (c) acquire an interest in, or rights in respect of, the electricity infrastructure of the holder of a Pelican Point generation licence.

(3) The holder of a Pelican Point generation licence or an associate of the holder must not—

- (a) hold a specially issued generation licence in respect of Torrens Island Power Station A or Torrens Island Power Station B or Northern Power Station at or near Port Augusta or Playford Power Station at or near Port Augusta; or
- (b) be entitled to any shares in, or be an associate of, the holder of a licence referred to in paragraph (a); or
- (c) acquire an interest in, or rights in respect of, the electricity infrastructure of the holder of a licence referred to in paragraph (a).

(4) The holder of a specially issued generation licence or a Pelican Point generation licence or an associate of the holder must not—

- (a) hold a specially issued transmission licence, a specially issued distribution licence or a specially issued retailing licence; or
- (b) be entitled to any shares in, or be an associate of, the holder of a licence referred to in paragraph (a); or
- (c) acquire an interest in, or rights in respect of, the assets of the holder of a specially issued retailing licence or the electricity infrastructure of the holder of any other licence referred to in paragraph (a); or
- (d) operate an electricity transmission network in another State or a Territory of the Commonwealth; or
- (e) be entitled to any shares in, or be an associate of, the operator of an electricity transmission network in another State or a Territory of the Commonwealth; or
- (f) acquire an interest in, or rights in respect of, an electricity transmission network in another State or a Territory of the Commonwealth; or
- (g) be entitled to any shares in, or be an associate of, a gas trading company; or
- (h) acquire an interest in, or rights in respect of, assets of a gas trading company; or
- (i) hold a gas pipeline licence; or
- (j) be entitled to any shares in, or be an associate of, a person who holds a gas pipeline licence; or
- (k) acquire an interest in, or rights in respect of, assets of a person who holds a gas pipeline licence.

(5) The holder of a specially issued transmission licence or an associate of the holder must not—

- (a) hold a specially issued generation licence, a Pelican Point generation licence, a specially issued distribution licence or a specially issued retailing licence; or
- (b) be entitled to any shares in, or be an associate of, the holder of a licence referred to in paragraph (a); or
- (c) acquire an interest in, or rights in respect of, the assets of the holder of a specially issued retailing licence or the electricity infrastructure of the holder of any other licence referred to in paragraph (a).

(6) The holder of a specially issued distribution licence or specially issued retailing licence or an associate of the holder must not—

- (a) hold a specially issued generation licence, a Pelican Point generation licence or a specially issued transmission licence; or
- (b) be entitled to any shares in, or be an associate of, the holder of a licence referred to in paragraph (a); or
- (c) acquire an interest in, or rights in respect of, the electricity infrastructure of the holder of a licence referred to in paragraph (a).

(7) The operator of an electricity transmission network in another State or a Territory of the Commonwealth or an associate of such an operator must not—

- (a) hold a specially issued generation licence or a Pelican Point generation licence; or
- (b) be entitled to any shares in, or be an associate of, the holder of a licence referred to in paragraph (a); or
- (c) acquire an interest in, or rights in respect of, the electricity infrastructure of the holder of a licence referred to in paragraph (a).

(8) A gas trading company or an associate of a gas trading company must not—

- (a) hold a specially issued generation licence or a Pelican Point generation licence; or
- (b) be entitled to any shares in, or be an associate of, the holder of a licence referred to in paragraph (a); or
- (c) acquire an interest in, or rights in respect of, the electricity infrastructure of the holder of a licence referred to in paragraph (a).

(9) A person who holds a gas pipeline licence or an associate of such a person must not—

- (a) hold a specially issued generation licence or a Pelican Point generation licence; or
- (b) be entitled to any shares in, or be an associate of, the holder of a licence referred to in paragraph (a); or
- (c) acquire an interest in, or rights in respect of, the electricity infrastructure of the holder of a licence referred to in paragraph (a).

Powers to rectify breach of cross-ownership rules

4. (1) If the Industry Regulator forms the opinion that there has been a breach of the cross-ownership rules, the Industry Regulator may, as the Industry Regulator considers necessary to rectify the breach, make one or more of the following orders (**rectification orders**):

- (a) an order requiring a person (whether or not the person in breach of the cross-ownership rules) to dispose of shares (in such a number only as is necessary to rectify the breach and in such a manner as will not result in a further breach) within a period specified in the order;
- (b) an order requiring an electricity entity to exercise its powers under the divestiture provisions in its constitution for the disposal of shares in the entity (in such a number only as is necessary to rectify the breach and in such a manner as will not result in a further breach) within a period specified in the order;
- (c) an order suspending voting rights attaching to shares to which an order under paragraph (a) or (b) relates until the order under that paragraph is complied with;
- (d) an order requiring termination of a partnership or joint venture giving rise to or involved in the breach of the cross-ownership rules within a period specified in the order;
- (e) an order requiring termination of an agreement, arrangement or understanding giving rise to or involved in the breach of the cross-ownership rules within a period specified in the order;

- (f) an order requiring an electricity entity or an associate of an electricity entity to cease carrying on operations giving rise to the breach of the cross-ownership rules within a period specified in the order;
- (g) an order requiring an electricity entity or an associate of an electricity entity to cease carrying on a business giving rise to the breach of the cross-ownership rules within a period specified in the order;
- (h) an order requiring disposal or surrender (in such a manner as will not result in a further breach) of interests or rights giving rise to the breach of the cross-ownership rules within a period specified in the order.

(2) A rectification order—

- (a) must be in writing; and
- (b) must be given to the person to whom it is directed; and
- (c) has effect according to its terms.

(3) If a person required by a rectification order to dispose of shares fails to comply with the order, the Industry Regulator may determine that the shares to which the order relates are forfeited to the Crown.

(4) Shares forfeited under subsection (3) must be sold by the Industry Regulator (to such a person as will not result in a further breach of the cross-ownership rules) and the proceeds of the sale, after deduction of the reasonable costs of the sale, paid to the person from whom the shares were forfeited.

(5) If a person to whom a rectification order is given fails to comply with the order, the person is guilty of an offence.

Maximum penalty: \$250 000.

Proclamations

5. The Governor may make proclamations for the purposes of this Schedule.

SCHEDULE 1A

Appointment and Selection of Experts for Court

(1) The Minister must establish a panel of experts who may sit as assessors with the Court consisting of persons with knowledge of, or experience in, the electricity supply industry or in the fields of commerce or economics.

(2) A member of a panel is to be appointed by the Minister for a term of office not exceeding three years and on conditions determined by the Minister and specified in the instrument of appointment.

(3) A member of a panel is, on the expiration of a term of office, eligible for reappointment.

(4) Subject to subclause (5) and except in the case of an appeal limited to a question of law, a judicial officer of the Court must select two members from the panel to sit with the Court on an appeal.

(5) A member of a panel who has a direct or indirect pecuniary or other interest in a matter before the Court is disqualified from participating in the hearing of the matter.

(6) Subclause (5) does not apply if the interest is as a result of the supply of goods or services that are available to members of the public on the same terms and conditions.

(7) If a member of a panel sitting with the Court dies or is for any reason unable to continue with any proceedings, the Court constituted of the judicial officer who is presiding at the proceedings and the other member of the panel sitting with the Court may, if the judicial officer so determines, continue and complete the proceedings.

(8) If proceedings are reheard, the Court may have regard to any record of proceedings made in the earlier proceedings (including a record of evidence taken in those proceedings).

Amendment of Sched. 2—Transitional Provisions

74. Schedule 2 of the principal Act is amended by striking out clause 2.

SCHEDULE

Amendment of Renmark Irrigation Trust Act 1936

The *Renmark Irrigation Trust Act 1936* is amended by striking out Part 8.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor