



## **ELECTRICITY (MISCELLANEOUS) AMENDMENT ACT 1997**

**No. 71 of 1997**

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ANNO QUADRAGESIMO SEXTO  
**ELIZABETHAE II REGINAE**  
A.D. 1997

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No. 71 of 1997

An Act to amend the Electricity Act 1996.

[Assented to 18 December 1997]

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Electricity (Miscellaneous) Amendment Act 1997*.
- (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 s. 4—Interpretation**

3. Section 4 of the principal Act is amended—

- (a) by striking out the definition of "contestable customer" and substituting the following definition:

"contestable customer" means a customer classified by regulation as a contestable customer;;

- (b) by striking out from paragraph (a) of the definition of "electrical installation" "of" and substituting "owned or operated by";

- (c) by inserting after the definition of "power system" the following definition:

"Pricing Regulator" means the person holding the office of Pricing Regulator under Part 2;;

- (d) by inserting in the definition of "transmission or distribution system" "the whole or a part of" after "means".

**Insertion of Division heading**

4. The following heading is inserted in Part 2 of the principal Act before section 7:

**DIVISION 1—TECHNICAL REGULATOR****Amendment of s. 11—Obligation to preserve confidentiality**

5. Section 11 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) Subsection (1) does not apply to the disclosure of information between persons engaged in the administration of this Act (including the Pricing Regulator and persons assisting the Pricing Regulator).

**Insertion of new Division in Part 2**

6. The following Division is inserted after section 14 of the principal Act:

**DIVISION 2—PRICING REGULATOR****Pricing Regulator**

14A. (1) There is to be a *Pricing Regulator*.

(2) The Pricing Regulator, who may be a Minister of the Crown or some other person, will be appointed by the Governor.

**Functions**

14B. The Pricing Regulator has the network services price fixing functions assigned to the Pricing Regulator under Part 3.

**Pricing Regulator's power to require information**

14C. (1) The Pricing Regulator may, by written notice, require a person to give the Pricing Regulator, within a time stated in the notice (which must be reasonable) information in the person's possession that the Pricing Regulator reasonably requires for the performance of the Pricing Regulator's functions under this Act.

(2) A person required to give information under this section must provide the information within the time stated in the notice.

Maximum penalty: \$10 000.

**Obligation to preserve confidentiality**

14D. (1) The Pricing Regulator must preserve the confidentiality of information that—

(a) could affect the competitive position of an electricity entity or other person;  
or

(b) is commercially sensitive for some other reason.

(2) Subsection (1) does not apply to the disclosure of information between persons engaged in the administration of this Act (including the Technical Regulator and persons assisting the Technical Regulator).

(3) Information classified by the Pricing Regulator as confidential is not liable to disclosure under the *Freedom of Information Act 1991*.

**Amendment of s. 21—Licence conditions**

7. Section 21 of the principal Act is amended—

- (a) by striking out from subsection (1) "on the issue or renewal of the licence" wherever occurring;
- (b) by inserting after subsection (2) the following subsection:

(3) The Technical Regulator must, so far as the Technical Regulator considers it practicable to do so, comply with a request of the Pricing Regulator for the imposition of a condition of a kind referred to in subsection (2).

**Insertion of new Division in Part 3**

8. The following Division is inserted after section 35 of the principal Act:

**DIVISION 2A—NETWORK SERVICES PRICING**

**Network services pricing**

35A. (1) The Pricing Regulator may, from time to time, by notice in the *Gazette*, fix a maximum price, or a range of maximum prices, for network services.

(2) A notice under subsection (1)—

- (a) may be limited in application, or have varying application, according to factors specified in the notice;
- (b) has effect for a period specified in the notice;
- (c) may be varied or revoked (by subsequent notice in the *Gazette*) in circumstances, or taking into account matters, specified in the notice.

(3) The Pricing Regulator may, from time to time, publish in such manner as the Pricing Regulator thinks fit, principles and guidelines that the Pricing Regulator will observe or take into account in fixing prices.

(4) The Pricing Regulator must, in formulating principles and guidelines, and in fixing prices, have regard to—

- (a) any relevant provisions of the National Electricity Code;
- (b) any relevant pricing recommendations published under the *Government Business Enterprises (Competition) Act 1996*;
- (c) any other matter that the Pricing Regulator thinks fit.

(5) An electricity entity must not charge a price for a service that exceeds an applicable maximum price fixed by the Pricing Regulator under this section.

Maximum penalty: \$50 000.

**Amendment of s. 91—Statutory declarations**

9. Section 91 of the principal Act is amended—

- (a) by inserting "or Pricing Regulator" after "Technical Regulator";
- (b) by striking out "Regulator" (second and third occurring) and substituting, in each case, "Technical Regulator or Pricing Regulator".

**Amendment of sched. 2**

10. Schedule 2 of the principal Act is amended by striking out subclause (1) of clause 2 and substituting the following subclause:

(1) An electricity corporation (within the meaning of the *Electricity Corporations Act 1994*) is not liable in damages to any person for—

- (a) the cutting off of the supply of electricity to any region, area or premises in pursuance of this Act; or
- (b) any partial or total failure to supply electricity or any variation in electricity supply unless the failure or variation is due to anything done or omitted to be done by the corporation in bad faith or to the negligence of the corporation.

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

E. J. NEAL Governor