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ELIZABETHAE II REGINAE

A.D. 1988

No. 38 of 1988

An Act to amend the Electricity Trust of South Australia Act, 1946.

[Assented to 28 April 1988]

The Parliament of South Australia enacts as follows:

1. (1) This Act may be cited as the "Electricity Trust of South Australia Act Amendment Act, 1988". Short title.

(2) The Electricity Trust of South Australia Act, 1946, is in this Act referred to as "the principal Act".

2. (1) Subject to subsection (2), this Act will come into operation on a day to be fixed by proclamation. Commencement.

(2) Section 4 will come into operation on the day on which the Local Government Act Amendment Act, 1988, comes into operation.

3. Section 3 of the principal Act is amended by inserting the following definitions: Amendment of s. 3— Interpretation.

"bush fire" means a fire that originates in, or spreads through, forest, scrub, grass or other vegetation:

"cable" includes any kind of electrical conductor:

"distribution system" means—

(a) the network of cables by which the Trust transmits and distributes electricity;

(b) the associated transformers and equipment of an electrical or other kind;

(c) structures for the support of any such cables, transformers or equipment,

and includes any cable, transformer, equipment or structure used on a temporary basis for purposes related to the maintenance, repair or replacement of any part of the distribution system:

"naturally occurring vegetation" means vegetation that has not been planted or nurtured by any person:

“to nurture” in relation to vegetation means actively to assist the growth of the vegetation:

“the principles of vegetation clearance” means the regulations dealing with the clearance of vegetation from public and private supply lines:

“private land” means—

(a) land alienated or contracted to be alienated from the Crown in fee simple;

(b) land occupied under a lease or licence from the Crown;

or

(c) land dedicated to a particular purpose and placed under the care, control and management of any person (whether or not that person is a Minister, agency or instrumentality of the Crown),

except any such land vested in, or under the care, control or management of, a municipal or district council and dedicated to, or held for, a public purpose:

“private supply line” means a part of the distribution system—

(a) designed to carry electricity at a voltage of 19 kV or less;

(b) situated on, above or under private land;

and

(c) supplying, or intended to supply electricity to some point on the land:

“public supply line” means any part of the distribution system except a private supply line.

Amendment of
s. 16
Rates and land
tax.

4. Section 16 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) For rating purposes under the Local Government Act, 1934, the following does not constitute ratable property:

(a) plant or equipment used by the Trust in connection with the generation, transmission or distribution of electricity (whether or not the plant or equipment is situated on land owned by the Trust);

(b) easements, rights of way or other similar rights (including such rights arising by virtue of a licence) granted in favour of the Trust in connection with the generation, transmission or distribution of electricity.

Repeal of heading
and ss. 36 to 42
and substitution
of new headings
and sections.

5. Sections 36 to 42 of the principal Act and the heading immediately preceding section 36 are repealed and the following headings and sections are substituted:

PART IV

POWERS, DUTIES AND IMMUNITIES

DIVISION I—GENERAL POWERS AND DUTIES OF THE TRUST

36. (1) The Trust is empowered—

General powers of
the Trust.

- (a) to generate, transmit and supply electricity within and beyond the State;
- (b) to do anything incidental or ancillary to that purpose including—
 - (i) the purchase, leasing, or hire of power stations, sub-stations, transmission lines and distribution systems;
 - (ii) the interconnection of the Trust's mains with those of other authorities and the receipt, supply or interchange of electricity;
 - (iii) the acquisition of undertakings for the generation, transmission or supply of electricity;
 - (iv) the entering into, and carrying out, of any transaction necessary for, or incidental to, any of the above purposes;
 - (v) the acquisition of land, or any interest in, over or affecting land in accordance with the Land Acquisition Act, 1969;
 - (vi) the exercise of any power under the Adelaide Electric Supply Company's Acts, 1897 to 1931.

(2) The Trust may, with the Minister's approval, grant loans or subsidies to other electricity suppliers in the State.

(3) The provisions of the Adelaide Electric Supply Company's Acts, 1897 to 1931 (apart from sections 32, 33 and 38 of the South Australian Electric Light and Motive Power Company's Act, 1897) apply to and in relation to the Trust as if references to the Company were references to the Trust.

37. (1) Subject to this section, the Trust will as far as practicable maintain the electricity supply through the distribution system.

The Trust's duties
with regard to
electricity supply.

(2) If it is reasonable and economic to do so, the Trust will, on the application of any person, and payment of the appropriate fees and charges fixed by the Trust, provide a supply of electricity to any land or premises occupied by that person.

(3) The Trust may cut off the supply of electricity to any region, area or premises if it is, in the Trust's opinion, necessary to do so—

- (a) to avert danger to any person or property;
- (b) to prevent damage to any part of the distribution system through overloading;

or

- (c) to allow for the maintenance or repair of any part of the distribution system.

(4) If the Trust proposes to cut off a supply of electricity in order to avert danger of a bush fire, the Trust should, if practicable, consult with the Country Fire Services Board or a delegate of that Board, before doing so.

(5) Where—

- (a) the Trust renders a proper account to the occupier of premises for electricity supplied to premises;
- (b) the account is not paid on or before a date for payment specified in the final notice of the account (which must be a date falling at least 7 days after the date of the notice),

the Trust may, after giving not less than 48 hours notice in writing to the occupier, cut off the supply of electricity to the premises.

Electricity
distribution
system.

38. The distribution system must be constructed and maintained in accordance with standards and practices generally accepted as appropriate internationally, or throughout Australia, by the electricity supply industry.

DIVISION II—VEGETATION CLEARANCE

Vegetation
clearance.

39. (1) The Trust has a duty to take reasonable steps—

- (a) to keep vegetation of all kinds clear of public supply lines;
and
- (b) to keep naturally occurring vegetation clear of private supply lines,

in accordance with the principles of vegetation clearance.

(2) The occupier of private land has (subject to the principles of vegetation clearance) a duty to take reasonable steps to keep vegetation (other than naturally occurring vegetation) clear of any private supply line on the land in accordance with the principles of vegetation clearance.

(3) A person acting with the Trust's authorization may, subject to the terms of the authorization—

- (a) enter land and inspect private or public supply lines on the land;
 - (b) enter land and carry out—
 - (i) work that the Trust is required or authorized to carry out under this section;
 - (ii) work that the occupier of the land should have (but has not) carried out in pursuance of the duty imposed by this section;
- or
- (iii) work that the occupier has requested the Trust to carry out on his or her behalf (being work that the occupier is obliged to carry out under this section).

(4) Reasonable notice should be given (either orally or in writing) to the occupier of land of an intention to enter the land under this section and, where work is to be carried out on the land, at least 60 days written notice, specifying the nature of the work, should be given, but notice is not required in an emergency.

(5) An authorized person may use reasonable force in the exercise of a power conferred by this section.

(6) No statutory authorization beyond this section is required for the carrying out of work required in pursuance of a duty imposed by this section.

(7) If vegetation is planted or nurtured in proximity to a public supply line contrary to the principles of vegetation clearance, the Trust may remove that vegetation and may recover the cost of so doing as a debt from the person by whom the vegetation was planted or nurtured.

(8) This section operates to the exclusion of common law duties, and other statutory duties, affecting the clearance of vegetation from public and private supply lines.

(9) Any costs incurred by the Trust in carrying out work on private land in pursuance of this section (other than work that the Trust is required to carry out in pursuance of a duty imposed by this section) may be recovered as a debt from the occupier of the land.

DIVISION III—STATUTORY EASEMENT

40. The purpose of this Division is—

Purpose of
Division.

(a) to legitimize informal arrangements under which parts of the distribution system have been established on, above or under land of which the Trust is not the owner;

and

(b) to ensure that the Trust has the necessary powers to enter any such land for the purpose of examining, repairing, modifying or replacing the relevant parts of the distribution system.

41. (1) Where, at the commencement of this section, any part of the distribution system is on, above or under land (other than land belonging to the Trust in fee simple) the Trust has an easement over that land.

Statutory
easement.

(2) The easement entitles the Trust—

(a) to maintain the relevant part of the distribution system on, above or under the land affected by the easement;

(b) to enter the land, by its agents or employees, at any reasonable time, for the purpose of examining, maintaining, repairing, modifying or replacing the relevant part of the distribution system;

(c) to bring onto the land any vehicles or equipment that may be reasonably necessary for any of the above purposes.

(3) The powers conferred by the easement must be exercised so as to minimize, as far as reasonably practicable, interference with the enjoyment of the land by other persons.

(4) If there is any inconsistency between this section and an instrument to which the Trust is a party, the terms of the instrument prevail to the extent of the inconsistency.

(5) An easement under this section need not be registered.

DIVISION IV—EXEMPTION OF THE TRUST FROM CERTAIN CIVIL LIABILITIES

42. The Trust incurs no civil liability in consequence of—

(a) cutting off the supply of electricity to any region, area or premises in pursuance of this Act;

or

(b) the failure of an electricity supply.

Immunity from liability in consequence of cutting off or failure of electricity supply.

Repeal of s. 43.

6. Section 43 of the principal Act is repealed.

Repeal of s. 44 and substitution of new section.

7. Section 44 of the principal Act is repealed and the following section is substituted:

Regulations.

44. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

(a) regulate the positioning of public or private supply lines and associated electrical and other equipment;

(b) restrict or prohibit the erection of buildings or structures in proximity to public or private supply lines;

(c) regulate the clearance of vegetation from public or private supply lines;

(d) impose penalties (not exceeding \$2 000) for breach of, or non-compliance with, a regulation.

(3) Regulations dealing with the clearance of vegetation from public or private supply lines can only be made with the concurrence of the Minister for the Environment.

(4) The regulations may—

(a) vary in their operation according to time, place or circumstance;

(b) confer discretionary powers.

SCHEDULE OF STATUTE LAW REVISION AMENDMENTS

The following further amendments are made to the principal Act:

Section 3	Delete the definition of "the company".
Section 4	Delete this section.
Section 8	Delete subsection (1a).
Section 11	Delete the proviso.
Section 19 (1) (a)	Delete this paragraph.
Section 20a (2)	Delete ", whether before or after the passing of the Electricity Trust of South Australia Act Amendment Act, 1952,".
Part III (comprising sections 27 to 35)	Delete this Part.
Sections 43a and 43b	Delete these sections.
Section 43e	Delete paragraph (b).
Section 43f	Delete this section.
Section 43g	Delete this section.
Section 43h	Delete this section.
The Schedule	Delete the schedule.

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

D. B. DUNSTAN, Governor