



STATUTES AMENDMENT (ELECTRICITY) ACT 1999

No. 74 of 1999

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ELIZABETHAE II REGINAE

A.D. 1999

No. 74 of 1999

An Act to amend the Electricity Act 1996, the Electricity Corporations Act 1994 and the Electricity Corporations (Restructuring and Disposal) Act 1999.

[Assented to 25 November 1999]

The Parliament of South Australia enacts as follows:

PART 1 PRELIMINARY

Short title

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

Commencement

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

(2) This section and section 12(1), (4) and (5) come into operation on the day on which this Act is assented to by the Governor.

(3) Section 4 will be taken to have come into operation on 11 October 1999.

(4) The Governor may, by proclamation—

- (a) bring sections 5(b) and (d), 6, 10, 12(2), 14(b) and 20 into operation at the time at which SA Generation Corporation is converted into a company under the *Corporations Law*; or
- (b) bring sections 5(b) and (d), 6, 10, 12(3), 14(b) and 20 into operation on a day fixed in the proclamation.

(5) Sections 18 and 19 will come into operation on 30 November 1999.

(6) Section 7(5) of the *Acts Interpretation Act 1915* does not apply to this Act.

Interpretation

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

**PART 2
AMENDMENT OF ELECTRICITY ACT 1996**

Amendment of s. 35B—Initial electricity pricing order by Treasurer

4. Section 35B of the principal Act is amended by inserting in subsection (7)(b) "(except as contemplated by the order)" after "varied".

**PART 3
AMENDMENT OF ELECTRICITY CORPORATIONS ACT 1994**

Amendment of s. 4—Interpretation

5. Section 4 of the principal Act is amended—

(a) by striking out paragraph (a) of the definition of "electricity corporation" and substituting the following paragraph:

(a) RESI; or;

(b) by striking out paragraph (b) of the definition of "electricity corporation";

(c) by striking out the definition of "ETSA" and substituting the following definition:

"RESI" means *RESI Corporation* continued in existence under Part 2;;

(d) by striking out the definition of "SAGC".

Repeal of s. 5

6. Section 5 of the principal Act is repealed.

Amendment of Part 2 to substitute RESI for ETSA

7. Part 2 of the principal Act is amended by striking out "ETSA" wherever it occurs (including in the headings) and substituting, in each case, "RESI".

Amendment of s. 8—ETSA to continue as RESI

8. Section 8 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) *ETSA Corporation* continues in existence as *RESI Corporation*.

Amendment of s. 14—Establishment of Board

9. Section 14 of the principal Act is amended by striking out from subsection (3) "ETSA's" and substituting "RESI's".

Repeal of Part 3

10. Part 3 of the principal Act is repealed.

Amendment of s. 34—Establishment of corporation

11. Section 34 of the principal Act is amended by striking out from subsection (3) "ETSA" and substituting "RESI".

Amendment of s. 48—Mining at Leigh Creek

12. (1) Section 48 of the principal Act is amended by inserting after subsection (2) the following subsection:

(3) SAGC may authorise another body to exercise all or any of the powers conferred on SAGC under this section.

(2) Section 48 of the principal Act is amended by inserting after subsection (3) the following subsection:

(4) In this section—

"SAGC" means *SA Generation Corporation* established under Part 3 before the repeal of that Part, as converted into a company under the *Corporations Law* (whether or not its shares remain in Crown ownership).

(3) Section 48 of the principal Act is amended by striking out subsections (2) and (3).

(4) If subsection (2) of this section comes into operation, subsection (3) of this section expires.

(5) If subsection (3) of this section comes into operation, subsection (2) of this section expires.

Amendment of Sched. 2—Repeal and Transitional Provisions

13. Schedule 2 of the principal Act is amended by inserting after subclause (4) of clause 5 the following subclause:

(4a) The electricity corporation may, by instrument in writing—

(a) suspend or limit rights or impose conditions on the exercise of rights arising under the easement under this clause; or

(b) surrender (in whole or in part) the easement under this clause,

and such an instrument has effect according to its terms.

PART 4
AMENDMENT OF ELECTRICITY CORPORATIONS (RESTRUCTURING
AND DISPOSAL) ACT 1999

Amendment of s. 3—Interpretation

14. Section 3 of the principal Act is amended—

(a) by striking out paragraph (a) of the definition of "electricity corporation" in subsection (1) and substituting the following paragraph:

(a) RESI (formerly ETSA); or;

(b) by striking out paragraph (b) of the definition of "electricity corporation" in subsection (1);

- (c) by inserting after the definition of "purchaser" in subsection (1) the following definition:

"RESI" means RESI Corporation continued in existence under the *Electricity Corporations Act 1994*;

Amendment of s. 13—Disposal of electricity assets and limitations on disposal

15. Section 13 of the principal Act is amended by striking out paragraph (d) of the definition of "prescribed electricity assets" in subsection (6) and substituting the following paragraph:

- (d) land on which infrastructure of a kind referred to in paragraph (a) or (c) is situated,.

Substitution of s. 35

16. Section 35 of the principal Act is repealed and the following section is substituted:

Exclusion of Crown liability as owner, etc., of leased assets

35. (1) The Governor may, by proclamation, declare that the lessor of assets the subject of a lease granted by a transfer order or sale/lease agreement, and the Crown, will, despite any other Act or law, be immune from civil or criminal liability in connection with the lease or those assets (other than a liability under the lease to the lessee) to the extent specified in the proclamation.

(2) The Governor may, by subsequent proclamation, vary or revoke a proclamation under subsection (1) with the consent of the lessee for the time being of the assets.

(3) A proclamation under this section has effect according to its terms.

Amendment of Sched. 1—Special Provisions

17. Schedule 1 of the principal Act is amended—

- (a) by inserting in clause 2(6) "or clause 5 of Schedule 2 of the *Electricity Corporations Act 1994*" after "by virtue of this clause";
- (b) by inserting after subclause (6) of clause 2 the following subclause:

(6a) If the specified body is an electricity corporation, the application of any easement that the body has under clause 5 of Schedule 2 of the *Electricity Corporations Act 1994* is excluded.;

- (c) by striking out subclause (7) of clause 2 and substituting the following subclauses:

(7) The specified body may, by instrument in writing—

- (a) suspend or limit rights or impose conditions on the exercise of rights arising under the easement under this clause; or
- (b) surrender (in whole or in part) the easement under this clause,

and such an instrument has effect according to its terms.

(7a) Nothing prevents more than one body from having an easement under this clause over the same land or in relation to the same electricity infrastructure.;

- (d) by inserting after clause 2 the following clause:

Building and development work for substations and transformers regarded as complying

2A. All building and development work carried out before 30 September 1999 in relation to substations or transformers owned or operated by an electricity corporation or State-owned company at that date will be regarded as complying with the statutory and regulatory requirements applicable at the time the work was carried out.

Amendment of Part 2 of Sched. 3—Substitution of Schedule 1 of Electricity Corporations Act 1994

18. The schedule to be inserted into the *Electricity Corporations Act 1994* by Part 2 of Schedule 3 of the principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (c) of the definition of "employer" in subclause (1) of clause 1:

- (d) a gas trading company that employs a pre-privatisation member of the Scheme or any other member of the Scheme;;

- (b) by inserting the following definition after the definition of "employer" in subclause (1) of clause 1:

"gas trading company" means—

- (a) Terra Gas trader Pty Ltd; and

- (b) any other body corporate—

- (i) carrying on the business of trading in gas; or

- (ii) that employs persons in, or in relation to, the business of trading in gas,

that has been declared by proclamation to be a gas trading company for the purposes of this Schedule;;

- (c) by striking out "clause 14(2)" from clause 6 and substituting "clause 14";

- (d) by striking out subclauses (3) and (4) of clause 14 and substituting the following subclauses:

(2a) Subject to subclause (4), where shares in an electricity corporation or a State-owned company are transferred pursuant to a sale/lease agreement within the meaning of the *Electricity Corporations (Restructuring and Disposal) Act 1999*, the former electricity corporation or State-owned company is liable (unless the Trust Deed or the Rules expressly provide otherwise) to pay to the Scheme within the period of five years immediately following the transfer of the shares an amount (to be determined by an actuary appointed by the Treasurer) sufficient to meet the unfunded liability of the Scheme in respect of benefits—

- (a) that accrued before the transfer of the shares occurred; and

- (b) that accrued for the benefit of those persons who were employed by the corporation or company and were members of the Scheme when the shares were transferred.

(3) The Treasurer is liable to pay to the Scheme the amount required to fully satisfy the whole or that part (if any) of the liability of a purchaser under subclause (2) or a former electricity corporation or State-owned company under subclause (2a) that has not been satisfied by the purchaser or former electricity corporation or State-owned company within the period referred to in the relevant subclause and, on payment of that amount by the Treasurer, the purchaser or former electricity corporation or State-owned company is liable to pay the same amount to the Treasurer.

(4) The Treasurer may, by notice in writing to the purchaser or the former electricity corporation or State-owned company, release the purchaser or former electricity corporation or State-owned company from the whole or part of its liability under subclause (2) or (2a) and, in that event, the Treasurer must pay to the Scheme the equivalent of the amount by which the liability has been reduced.;

(e) by inserting the following paragraph after paragraph (c) of the definition of "employer" in subclause (1) of clause 2 of the Trust Deed:

(d) a gas trading company that employs a pre-privatisation member of the Scheme or any other member of the Scheme;;

(f) by inserting the following definition after the definition of "employer" in subclause (1) of clause 2 of the Trust Deed:

"gas trading company" means—

(a) Terra Gas trader Pty Ltd; and

(b) any other body corporate—

(i) carrying on the business of trading in gas; or

(ii) that employs persons in, or in relation to, the business of trading in gas,

that has been declared by proclamation to be a gas trading company for the purposes of this Deed;;

(g) by striking out "subclause (2)" from subclause (1) of clause 17 of the Trust Deed and substituting "this clause";

(h) by inserting the following subclause after subclause (2) of clause 17 of the Trust Deed:

(2a) A gas trading company that employs one or more pre-privatisation members of the Scheme cannot withdraw from the Scheme without the consent in writing of the member or members concerned.

Amendment of Part 4 of Sched. 3—Amendment of Schedule 1 of the Electricity Corporations Act 1994

19. Part 4 of Schedule 3 of the principal Act is amended by striking out "subclause (5)" from paragraphs (e) and (f) of clause 4 and substituting, in each case, "subclause (6)".

Amendment of Sched. 4—Related Amendments

20. Schedule 4 of the principal Act is amended by striking out clauses 12 to 15.

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

E. J. NEAL Governor