

Electricity Industry (Miscellaneous Amendment) Bill

EXPLANATORY MEMORANDUM

The Bill provides for miscellaneous amendments to the **Electricity Industry Act 1993** and other Acts and provides for the corporatisation and privatisation of Power Net Victoria.

PART 1—PRELIMINARY

- Clause 1 sets out the purpose of the Act.
- Clause 2 provides for the commencement of the Act. Part 1 comes into operation on the day on which the Act receives the Royal Assent. The remaining provisions come into operation on a day or days to be proclaimed, but if a provision (other than sections 10, 12 and 15) does not come into operation before 1 June 1998, it comes into operation on that day.
- Clause 3 states that in this Act, the **Electricity Industry Act 1993** (EI Act) is called the Principal Act.

PART 2—AMENDMENT OF PRINCIPAL ACT

- Clause 4 amends section 17(1) of the EI Act by omitting the words "in the State" in paragraph (a) and the words "in Victoria" in paragraphs (b) and (c) and by inserting a new sub-section (3A). The new sub-section is to the effect that the Minister may revoke the exemption from directions applying to any instrument specified under sub-section (3).
- Clause 5 amends section 41C(1) of the EI Act so as to include reference in that section to any system security agreement that is in force and in respect of which a declaration under section 41CA is in force.
- Clause 6 inserts a new section 41CA in the EI Act. Proposed section 41CA authorises the Minister and a responsible Minister of the Crown in right of another State or Territory to enter into an agreement relating to security of the electricity supply system in Victoria and that State or Territory and to declare, by notice published in the Government Gazette, that agreement to be a system security agreement for the purposes of section 41C.
- Clause 7 amends sections 77(5) and 78(4) of the EI Act by including references in those sections to a public transmission company.

- Clause 8 amends section 91AA of the EI Act by excluding from the **Trade Practices Act** and **Competition Code** authorisation contained in that section several specified types of provisions which may be contained in a licence issued under Part 12 of the EI Act.
- Clause 9 amends section 91AA of the EI Act by excluding the pool rules from the **Trade Practices Act** and **Competition Code** authorisation contained in that section.
- Clause 10 amends section 154 of the EI Act by inserting a definition of the term "National Electricity Code".
- Clause 11 amends section 158A of the EI Act by inserting new sub-sections (4) and (5). The new sub-sections have the effect of revoking clause 4.4 of the Order made under section 158A(1) on 30 June 1995 and provides that the revocation of that clause does not have effect for the purposes of that Order as a retailing change in taxes, a Power Net change in taxes or a generator change in taxes within in the meaning of that Order.
- Clause 12 repeals sections 158D and 158E of the EI Act and amends sections 162, 163 and 167 of the EI Act by omitting references to the pool rules and, in some instances, substituting references to the National Electricity Code.
- Clause 13 amends section 158C of the EI Act so as to permit an amendment to be made to an Order in force under section 158A for the purpose of applying the Order to transmission companies, amending or varying the Order in so far as it applies to transmission companies and amending or varying the Order in so far as it applies to persons other than transmission companies if the amendment or variation is consequential on an amendment or variation of the Order as it applies to transmission companies.
- Clause 14 inserts a new section 163AAA in the EI Act. Proposed section 163AAA provides that the conditions to which a licence to distribute or supply electricity is subject may include a requirement that the licensee, on terms and conditions approved by the Office of the Regulator-General, supply and sell electricity to emergency customers. Emergency customers are defined for this purpose, in relation to a licensee, as non-franchise customers of another licensee whose right to acquire electricity from the market for wholesale trading in electricity is suspended or terminated. Provision is made for the publication of approved tariffs and terms and conditions to be published in the Government Gazette and for those terms and conditions to be binding on the distribution company and the emergency customers to which they apply.

- Clause 15 substitutes a new section 165A in the EI Act which is to the effect that the Office of the Regulator-General may resolve, or seek to resolve, in accordance with procedures specified by the Office, disputes between two or more persons, none of whom are licensees, relating to the operation as between those persons of an industry code.
- Clause 16 inserts a new Part 17 in the EI Act. Proposed Part 17 provides for the revocation of certain specified river reservations, for the consequences of that revocation, and for certain rights in roads on specified land to cease.
- Clause 17 inserts a new Part 5 in Schedule 3C of the EI Act, which specifies the land in respect of which the river reservations referred to in Clause 16 are revoked.

PART 3—POWER NET VICTORIA

Part 3 provides for the corporatisation and privatisation of Power Net Victoria. It inserts various provisions in the EI Act which recognise the existence of public and private transmission companies for the purposes of the Act.

- Clause 18 inserts definitions of "public transmission company" and "transmission company" and makes consequential amendments to the definitions of "undertaker" and "undertaking".
- Clause 19 amends sections 4A, 26, 27, 29, 35, 36, 36A, 37, 38 and 42AA of the EI Act by, in each case, inserting references to "public transmission company" and "transmission company" where reference is presently made to "public distribution company" and "distribution company".
- Clause 20 amends section 42 of the EI Act by omitting references to Power Net Victoria and amends section 42A(3) by inserting reference to a "transmission company".
- Clause 21 amends section 44A of the EI Act by substituting references to "a transmission company" for "Power Net Victoria", amends section 45A by including reference to "transmission companies" and amends 46 by omitting reference to Power Net Victoria and inserting reference to a "transmission company".
- Clause 22 amends sections 47, 84A, 84AB, 84C, 86, 90, 91A, 91AB, 99 and 103 of the EI Act by inserting references to "public transmission company" and "transmission company" where reference is presently made to "public distribution company" and "distribution company".
- Clause 23 amends sections 153U, 153V, 153W and 153X of the EI Act by inserting references to "public transmission company" and "transmission company"

where reference is presently made to "public distribution company" and "distribution company". Section 153W is also amended by inserting a new sub-section (1A) which is to the effect that a transmission company that is liable under section 103(3) to pay certain amounts to the Treasurer must, if so directed by the Treasurer, pay those amounts to SEC and not to the Treasurer.

Clause 24 amends sections 156, 163AA and 168 of the EI Act by inserting references to "public transmission company" and "transmission company" where reference is presently made to "public distribution company" and "distribution company". Reference to "generation company" is also inserted in section 156.

PART 4—TRANSFER OF PROPERTY

Clause 25 inserts a new Part 11AC in the EI Act. Proposed new Part 11AC provides for the transfer of certain property and staff of a public transmission company or a public generation company nominated by the Treasurer for the purposes of the new Part 11AC. The property rights and liabilities of a nominated entity which are allocated to a transferee under an allocation statement vest in the transferee on the relevant date. Provision is also made for the transfer of staff and the continuity of employment of transferred staff.

PART 5—AMENDMENT OF OTHER ACTS

Part 4 contains various miscellaneous amendments to the **State Electricity Commission Act 1958** (*SEC Act*) and other Acts.

Clause 26 amends the definition of "electricity corporation" contained in section 3(1) of the SEC Act by including reference to a "transmission company" and amends section 85C by including reference to a "transmission company" and a "public transmission company". This clause also substitutes a reference to the chief electrical inspector for the reference to the Minister in section 50(1) of the SEC Act; amends section 52(1) by omitting references to the Electrical Approvals Board; and amends section 57H by inserting the word "natural" before "person".

Clause 27 amends the definition of "electricity corporation" contained in section 3(1) of the **Electric Light and Power Act 1958** by inserting a reference to "transmission company".

Clause 28 repeals section 2(4) of the **Electricity Industry (Amendment) Act 1996**.

Clause 29 amends section 56 of the **Water Act 1989** by inserting a new sub-section (6). The new sub-section permits the Minister, if satisfied that a generation

company within the meaning of the **Electricity Industry Act 1993** requires a licence to take and use water for purposes associated with the operation of a hydro-electric power station, to issue the licence for a period exceeding 15 years (but not exceeding 40 years) despite sub-section (3) of section 56.

Clause 30 makes several amendments to Part 37 of Schedule 2 to the **National Parks Act 1975**.

Clause 31 amends section 36A of the **Treasury Corporation of Victoria Act 1992** by including a reference in that section to a "public transmission company" and amends section 3 of the **Melbourne City Link Act 1995** by inserting a new paragraph in the definition of "electricity corporation" which refers to a public distribution company, public transmission company or public generation company.

