

# Electricity Industry (Amendment) Bill

## EXPLANATORY MEMORANDUM

The Bill provides for the further reform of the electricity supply industry by way of amendment of the **Electricity Industry Act 1993** and other Acts.

### PART 1—PRELIMINARY

*Clause 1* sets out the purpose of the Act.

*Clause 2* provides for the commencement of the Act.

*Clause 3* provides that the **Electricity Industry Act 1993** (the “EI Act”) is the principal Act.

### PART 2—AMENDMENT OF ELECTRICITY INDUSTRY ACT 1993

This part establishes public distribution companies and public generation companies as a sub-class of distribution and generation companies and distinguishes the sub-class for the purpose of defining powers and obligations. The part amends provisions allowing the Governor-in-Council to regulate tariffs and charges in the electricity supply industry and makes other amendments.

*Clause 4* amends section 3 of the EI Act by amending the definitions of “distribution company”, “generation company” and “Latrobe area” and inserting new definitions of “corporation”, “public distribution company”, “public generation company” and “Office”. The clause amends section 3 of the EI Act by omitting the definition of “Yallourn works area”.

*Clause 5* inserts a new section 4A in the EI Act which provides that the Governor in Council by Order may declare that specified references in provisions of the EI Act other than Part 12 or other Acts to a distribution company or a generation company do not apply to a licence holder who has been declared to be a distribution company or a generation company. A copy of such an Order must be laid before Parliament and an Order is subject to disallowance.

*Clause 6* amends section 12A of the EI Act by inserting a new sub-section (4) which provides that the **Mineral Resources Development Act 1990** will apply to a generation company mining coal in the Latrobe area once the company has been granted a mining licence.

*Clause 7* amends section 12B of the EI Act by inserting new sub-sections (7) and (8) which provide that generation companies mining coal under mining licences will not liable to pay the brown coal levy in respect of coal produced from land within the Latrobe area; however they will still be liable to pay any liability in respect of the brown coal levy which accrued prior to their being granted a mining licence.

*Clause 8* amends certain sections of the EI Act to limit the operation of provisions concerning corporate structure, accounting and record-keeping (modelled on the provisions of the **State Owned Enterprises Act 1992**) to State-owned companies. Sections 26 (4), 29 (3), 35 (13), 36 (2) and 37 (6) of the EI Act are amended by

substituting new descriptions of “electricity corporation” as including VPX, a public distribution company and a public generation company.

Section 33 is amended to make the provision with respect to directors’ indemnities more consistent with the equivalent provision of the Corporations Law.

Section 35 of the EI Act is amended to allow, in relation to State-owned companies, the Treasurer or the Minister to specify the information required in a business plan and the Treasurer to specify the information required in a financial statement.

Section 38 (1) is amended to provide that dividends payable by electricity corporations to the State will be payable only by publicly-owned distribution and generation companies. A new section 38 (3) will be inserted to provide that the Treasurer may direct that dividends be paid to the State or to the SEC or another statutory authority if the SEC or the other statutory authority holds shares in the company.

*Clause 9* amends section 42 of the EI Act by limiting the power to compulsorily acquire land for the purposes of the **Electricity Industry Act 1993** to Power Net Victoria and VPX. A new sub-section (3) will be inserted which provides that compulsory acquisitions or acquisitions by agreement commenced before the amended section 42 comes into effect may be completed.

*Clause 10* inserts a new section 42A in the EI Act which permits Generation Victoria, a distribution company or a generation company to compulsorily acquire easements for the purpose of erecting and maintaining power lines. Exercise of the power is subject to the approval of the Governor in Council.

A new section 42B is inserted in the EI Act, which provides that in relation to land in the Latrobe area, a generation company may recommend to the Minister administering the **Mineral Resources Development Act 1990**, the compulsory acquisition of any land which is or may be required by the company in connection with or incidental to carrying out operations under a licence issued to the company. To ensure that the land can be used by the relevant generation company for these purposes, an acquisition by the Minister under the proposed section is not subject to the provision in the **Land Acquisition and Compensation Act 1986** which provides that an authority which has acquired an interest and proposes disposing of that interest within 18 months of the date of acquisition must, if practicable, first offer the interest for sale to the former owner at the market value of the land at the date of acquisition.

*Clause 11* inserts a new section 45B in the EI Act permitting Generation Victoria or a generation company to give notice to the Registrar of Titles of the termination of an easement granted over its land. The Registrar of Titles on being given that notice must record the extinguishment of the easement in the Register.

*Clause 12* amends section 46 by providing that only Crown land and land owned by Power Net Victoria or VPX is exempt from council rates.

A generation company liable to pay local government rates in respect of land on which a power station is situated, may pay to each relevant council any amounts agreed between the generation company and the relevant council or, if such an agreement has not been entered into by 31 December 1995, amounts determined by arbitration as being payable.

A new section 46 (3) is inserted which provides that a council may not levy annual service charges under section 221 of the **Local Government Act 1989** on land owned or occupied by a generation company on which a power station is situated.

*Clause 13* amends section 47 of the EI Act to ensure that distribution and generation companies carrying out works under that section are subject to any access code issued by the Office of the Regulator-General under the **Office of the Regulator-General Act 1994**.

*Clause 14* inserts a new section 47A in the EI Act 1993 which subjects the generation companies to the **Mineral Resources Development Act 1990**. It allows the Governor-in-Council by Order to grant the generation companies a mining licence over land in the Latrobe area. It requires the generation companies to submit work plans and rehabilitation plans and enter into a rehabilitation bond. It deems those plans and bonds to be registered during the period from the commencement of the Order until the registration of the licence. The mining registrar is required to register a licence, authority to commence work, work plan or rehabilitation bond entered into under an Order granted under the section.

*Clause 15* amends sections 63A (2) (a) and 71A (1) of the EI Act to limit the bodies to which can be allocated SEC liabilities under employment agreements that form part of the excluded property or liabilities that relate to SEC functions discontinued before 3 January 1994, to VPX, statutory authorities, or companies all the shares in which are held by or on behalf of the State or a statutory authority. The bodies to which can be allocated liability to pay a fine where the SEC is convicted of an offence in respect of which a fine is payable are limited to VPX, a statutory authority or a company all the shares in which are held by or on behalf of the State or a statutory authority.

*Clause 16* amends sections 77 and 78 of the EI Act to limit the allocation of SEC financial obligations to publicly-owned distribution and generation companies and provide for publicly-owned companies to make payments to SEC in respect of these obligations.

*Clause 17* repeals Part 6A of the EI Act, which provided for distribution companies and other electricity purchasers to pay a levy on the wholesale purchase of electricity.

*Clause 18* replaces section 84A of the EI Act with a new section which provides that the public distribution and generation companies are public authorities but do not represent the Crown.

*Clause 19* amends section 84c of the EI Act to limit to publicly-owned distribution and generation companies the obligation to provide reports to the Treasurer. The clause also amends section 90 by restricting the Treasurer's power to guarantee the obligation of electricity corporations to publicly-owned bodies.

*Clause 20* amends section 92 of the EI Act to provide that Parliament may disallow regulations made by the Governor in Council under the EI Act.

*Clause 21* inserts a new section 99 (6A) in the EI Act to provide that a direction by the Minister to Power Net Victoria to transfer property, rights and liabilities or a direction to Power Net Victoria from the Treasurer and the Minister to amend an allocation statement that would affect a distribution company or a generation company, may only be made if all the shares in the company are held by or on behalf of the State or a statutory authority.

*Clause 22* amends sections 106A and 124A in the EI Act to provide that an allocation of liability for fines payable where Power Net Victoria or Electricity Services Victoria

were convicted of an offence in respect of which a fine was payable, may only be made to a statutory authority or a company all the shares in which are held by or on behalf of the State or a statutory authority.

*Clause 23* amends section 137 of the EI Act by providing for the allocation of property of a municipal electrical undertaking between public distribution companies only.

*Clause 24* inserts a new section 143A in the EI Act which provides for a company which was allocated under an allocation statement proceedings involving a municipal council to be substituted for the council as a party to the proceedings.

*Clause 25* amends section 153H of the EI Act to provide that liability to pay a fine where Generation Victoria is convicted of an offence in respect of which a fine is payable, can be allocated only to a public generation company. The clause also omits the definition of “distributor” from section 154 and inserts a definition of “pool rules” in section 154.

*Clause 26* amends section 158A of the EI Act by inserting new sub-sections (1A) and (1B) which provide that the Governor in Council by Order published in the Government Gazette may declare prices and goods and services to be prescribed prices and prescribed goods and services in respect of the electricity industry. The Order may direct the Office to make a determination under the **Office of the Regulator-General Act 1994** in respect of certain matters specified in the Order. Section 158A (3) (b) of the EI Act is repealed. Section 158A (1) (d) is amended by substituting a reference to the new sub-section (1A) for a reference to section 3 (2) of the **Office of the Regulator-General Act 1994**.

*Clause 27* inserts a new section 158B in the EI Act, which provides that the Governor in Council by Order published in the Government Gazette may regulate the amounts which SEC is entitled to receive under the pool rules for or in respect of electricity supplied to SEC under the Loy Yang Power Supply Agreement and which is sold by SEC in the market for wholesale trading in electricity operated and administered by VPX. The Order may provide that the pool rules will apply as modified by the Order.

The clause inserts a new section 158C which provides that Orders of the Governor in Council made under sections 158A or 158B of the EI Act cannot be amended or varied, and no new orders may be made under those sections, after the first day on which any public distribution or generation company ceases to be a public distribution or generation company; however, an Order made under those sections can be wholly revoked.

*Clause 28* amends section 161 (1) of the EI Act to clarify that the sale of electricity is a separate activity for which a licence application can be made. The clause amends section 162 (2) to provide that the Office of the Regulator-General must not grant an application for a licence to sell electricity unless the Office is satisfied that the applicant is financially viable. This requirement does not apply if the licence contains a condition requiring compliance with the pool rules and the pool rules contain prudential requirements. The clause inserts a new sub-section 162 (2) (d) which provides that licences to generate or distribute electricity, can only be granted to companies incorporated under the Corporations Law, to statutory authorities or to a corporation all the shares in which are held by or on behalf of the State or a statutory corporation. This requirement supports the operation of the new Part 13 of the EI Act.

The clause inserts a new section 162 (2B) in the EI Act which provides that where a licence has been issued authorising a distribution company to supply electricity to

franchise customers, a licence to another applicant authorising supply to the same franchise customers must not be issued unless the Minister and the licensed distribution company have agreed.

*Clause 29* amends section 163 of the EI Act by providing that licence conditions may include provisions requiring the licensee to provide such information to the Office of the Regulator-General as the Office may from time to time require. The section is also amended so that licence fees and charges are to be determined by the Minister having regard to the proportion of the total costs of the Office that are incurred in the administration of the electricity industry regulation provisions of the EI Act.

The clause inserts a new section 163 (5) which provides that if the Office issues a single licence authorising the generation, distribution and supply of electricity, or issues to the same person separate licences for those activities, the licence or licences must contain a condition prohibiting the licence holder from having generating capacity in excess of specified limits.

*Clause 30* substitutes a new section 163A in the EI Act to provide for the fee payable by a distribution company in respect of its licence to sell electricity to franchise customers to be determined as the amount of the anticipated income of the distribution company which exceeds the costs and expenses incurred in deriving the income, and a reasonable return on the capital used in deriving the income, having regard to any relevant Order under section 158A, the value of the company's property, rights and liabilities, its number of customers and certain other matters.

*Clause 31* amends section 164 to permit the Office of the Regulator-General to revoke a licence if it is satisfied the licence holder of a licence to generate or distribute electricity is not a company incorporated under the Corporations Law, a statutory authority or a corporation all the shares in which are held by or on behalf of the State or a statutory authority.

*Clause 32* inserts a new section 164A in the EI Act to provide that the Office of the Regulator-General must not grant an application for a licence or vary a licence if the Office is satisfied that the effect of granting the licence or variation would be in certain circumstances inconsistent with the new Part 13 of the EI Act.

*Clause 33* amends section 169 of the EI Act by including a reference to section 158A.

A new section 169 (3A) is inserted in the EI Act which provides that a distribution company is deemed to have entered into a contract with a franchise customer on the tariffs, terms and conditions of which the distribution company has given notice in the Government Gazette.

Section 169 (6) of the EI Act is repealed.

*Clause 34* repeals schedule 4 of the EI Act.

### **PART 3—NEW PARTS 11B, 13 AND 14**

This Part inserts new Parts 11B, 13 and 14 in the EI Act.

*Clause 35* inserts a new Part 11B which allows the Treasurer to enter an agreement for the sale or disposal of shares in a public distribution company or public generation company. The Treasurer can direct that shares held by the State or a statutory authority in a public distribution

or generation company to be transferred to the SEC. The clause provides for the distribution or generation companies to pay certain amounts for which they are liable to the SEC rather than the Treasurer. Part 11B also excludes the **Freedom of Information Act 1982** from applying to documents concerning the identity of persons expressing an interest in acquiring a public distribution or generation company or the terms of any expression of interest or offer.

*Clause 36* inserts a new Part 13 which provides for certain interests in electricity industry companies to be prohibited interests and for enforced divestiture of those interests.

The new section 171 inserts definitions and contains other interpretation provisions for the purposes of Part 13. These include provisions specifying whether a person has a controlling interest or a substantial interest, and whether a person is entitled to generating capacity, for the purposes of Part 13. Under the new section 173, it is unlawful for a person to hold a prohibited interest. Section 173 sets out what constitutes a prohibited interest for this purpose by reference to the number of controlling or substantial interests a person has in licensees. In the case of certain licensees, an entitlement to generating capacity can also give rise to a prohibited interest.

Sub-section 173 (5) permits the Office to declare that a person who is not a licensee does not hold a prohibited interest if the person does not hold a controlling interest but holds a substantial interest in three or more licensees for passive investment purposes only. Sub-section (6) permits the Office to declare in writing that a person does not hold a prohibited interest if the Office is satisfied that were a person to hold such a prohibited interest, it would not be likely to substantially lessen competition in a market in which electricity is bought and sold in Victoria.

The new section 174 provides that the Office may require a person who is or is suspected by the Office of being entitled to shares in or holding a controlling or substantial interest in a licensee, or of being entitled to generating capacity, to provide information for the purpose of determining whether that person or any other person has or is taking action to acquire a prohibited interest. If the information is not provided or is false or misleading, the Office may take certain action, such as declaring that the person is an associate, that the person is entitled to specified shares in the licensee, that voting rights attached to those shares are suspended and that the person has a prohibited interest.

The new section 175 provides that if the Office makes a determination under section 174 (3) or if the Office forms the opinion that the person has a prohibited interest, the Office may serve a notice declaring that the offender or other relevant person must dispose of certain shares. If the shares are not disposed of, the shares can be forfeited to the State. Section 175 also provides that certain transactions which cause a person to have a prohibited interest are illegal and void.

The new section 176 provides that if written notice is served on a licensee that a person is an associate of another or has an prohibited interest in a licensee or that voting rights are suspended, the declaration is binding and has effect in relation to any general meeting of the licensee held after receipt by the licensee of the notice. The new section 177 enables the Office to require a licensee to dispose of its entitlement to generating capacity where the entitlement causes it to have a prohibited interest. If the licensee does not comply with the requirement, the Office may revoke its license. The new section 178 provides that if in the Office's opinion, a general meeting of a licensee has passed a resolution as a result of the admission of votes that

should not by virtue of a declaration under section 174 (3) or 175 (1) have been admitted, the Office may by written notice declare that resolution to have been at all times null and void.

The new section 179 provides that the Office may make a determination on the basis of such information as the Office considers sufficient in the circumstances. The Office may confirm, vary or revoke a determination.

The new section 180 provides that an appeal lies to the Supreme Court against a determination. The Supreme Court may quash or vary the determination.

The new section 181 provides that the Office is to sell any shares forfeited to the State. Any profits from shares sold are paid to the person from whom the shares were forfeited or, if the shares were transferred as a result of a transaction that was illegal and void under section 175 (5) and the transferor did not receive the full consideration agreed upon with the transferee, to the transferor or transferee where appropriate.

Section 182 sets out service requirements in respect of notices.

*Clause 37* inserts a new Part 14 in the EI Act relating to land in the Latrobe Valley. The proposed new section 183 provides that land described in Part 1 of Schedule 3A is divested from Generation Victoria, the State Electricity Commission of Victoria, Yallourn Energy Limited and Hazelwood Power Corporation Ltd and reverts to the Crown. New sections 184 and 185 preserve certain specified leases, sub-leases and easements.

The new section 186 provides for the surrender and reversion to the Crown of certain land owned by the Public Transport Corporation. The new section 187 provides that certain other areas of land are deemed to be surrendered to the Crown. Sub-section (2) of section 187 provides that compensation for the surrender of that land to the Crown will be paid by Yallourn Energy Limited to any person who immediately before the commencement of the section was a registered proprietor of the land.

The new sections 188, 189, 190 and 191 provides for the revocation of certain specified reservations in respect of land and rivers. Section 192 provides that on revocation of the specified reservations, the land is deemed to be unalienated Crown land, the appointment of any committee of management is revoked and any regulations under section 13 of the **Crown Land (Reserves) Act 1978** are revoked to the extent that they apply to the land.

The new section 193 provides that all rights, easements or privileges in land specified on certain plans lodged in the Central Plan Office of the Department of Finance and numbered LEGL/95-69 and LEGL/95-70 cease.

The new section 194 permits a lease of up to 50 years to be granted in respect of certain Latrobe River land.

The proposed section 195 permits the Governor in Council to make certain land grants to Yallourn Energy Limited, Hazelwood Power Corporation Limited or the SEC.

The new section 196 provides for amendments to be made title records to record changes arising from this Part. The proposed section 197 exempts transactions under Part 14 from stamp duty and other taxes.

*Clause 38* inserts a new schedule 3A in the Act specifying the areas of, and interests in, land which are to be surrendered or preserved or reservations which are to be revoked under Part 14.

#### **PART 4—FURTHER AMENDMENT OF ELECTRICITY INDUSTRY ACT 1993**

*Clause 39* amends section 154 of the EI Act by repealing the definitions of “franchise customer” and “non-franchise customer” in that section. Section 158 (1) (b) (i) of the EI Act is repealed. Section 158A (1) (a) is repealed. Section 162 (2B) is repealed. Section 163A is repealed. Sections 169 (1), (2), (3), (3A) and (4) are repealed.

These provisions will not commence until 1 January 2001.

#### **PART 5—AMENDMENT OF MINERAL RESOURCES DEVELOPMENT ACT 1990**

This part amends the **Mineral Resources Development Act 1990**.

*Clause 40* amends section 14 (3) (a) of the **Mineral Resources Development Act 1990** to permit the Minister to determine a term of more than 20 years for a mining licence.

*Clause 41* amends section 32 (1) of the **Mineral Resources Development Act 1990** to permit the Minister to determine a renewal term of more than 20 years for a mining licence.

*Clause 42* inserts new sections 105 (3) and (4) in the **Mineral Resources Development Act 1990** to permit the provisions of the **Occupational Health and Safety Act 1985** to be applied to generation companies mining under mining licences issued under the new section 47A of the **Electricity Industry Act 1993**.

#### **PART 6—AMENDMENT OF OFFICE OF THE REGULATOR-GENERAL ACT 1994**

This part amends the **Office of the Regulator-General Act 1994** by removing the requirements that the Office be administered in accordance with statements of government policy. It provides for the continuing in force of statements of government policy already in effect. It clarifies the relationship between determinations and Orders under the **Office of the Regulator-General Act 1994** and under the **Electricity Industry Act 1993**.

*Clause 43* amends the definition of “determination” in section 3 (1) of the **Office of the Regulator-General Act 1994**.

*Clause 44* amends section 3 (2) of the **Office of the Regulator-General Act 1994** to provide that the Governor in Council’s power under the **Office of the Regulator-General Act 1994** to declare that an industry is a regulated industry, that prices are to be prescribed prices and goods and services to be prescribed goods and services in respect of a regulated industry and to declare powers to be exercised by the Office in respect of the regulated industry, does not apply to the electricity industry or the **Electricity Industry Act 1993** after the commencement of this section.

Section 158 (2) of the **Electricity Industry Act 1993** is repealed.

*Clause 45* amends section 8 (f) of the **Office of the Regulator-General Act 1994** to remove the Minister’s power to provide general direction and control as to the manner in which the Office is to administer the **Office of the Regulator-General Act 1994**.



*Clause 46* amends sections 3 (1), 7 (2) and 25 (2) and repeals sections 4 (3), 10 and 26 (2) (b) of the **Office of the Regulator-General Act 1994** to remove the obligation on the Office of the Regulator-General to perform its functions and exercise its powers in such a manner as the Office considers best gives effect to relevant statements of government policy and to remove the provision preventing the Office from granting a licence unless the grant is not inconsistent with any statement of government policy declared under the **Office of the Regulator-General Act 1994**. Section 162 (2) of the **Electricity Industry Act 1993** is amended by deleting a reference to statements of government policy.

*Clause 47* inserts a new section 9A in the **Office of the Regulator-General Act 1994** which provides that statements of government policy already in force before the commencement of this section will continue to apply.

*Clause 48* substitutes a new section 22 in the **Office of the Regulator-General Act 1994** which permits delegation of functions or powers of the Office of the Regulator-General to a member of a committee or panel appointed or designated by the Office.

*Clause 49* amends section 25 (1) of the **Office of the Regulator-General Act 1994** by inserting a provision that the provisions of the **Office of the Regulator-General Act 1994** governing price determination are subject to anything to the contrary in the relevant legislation or an Order in Council made under Section 3 (2) of the **Office of the Regulator-General Act 1994** or under section 158A of the **Electricity Industry Act 1993**.

*Clause 50* amends section 26 of the **Office of the Regulator-General Act 1994** to allow the Office to exercise other regulatory powers conferred by the legislation under which the regulated industry operates or in an Order in Council in respect of a regulated industry made under Section 3 (2) of the **Office of the Regulator-General Act 1994** or under Section 158A of the **Electricity Industry Act 1993**. Section 26 is made subject to anything to the contrary in the relevant legislation or an Order in Council under section 3 (2) or Section 158A of the **Electricity Industry Act 1993**.

*Clause 51* inserts a new section 27AA in the **Office of the Regulator-General Act 1994** which provides that the parts of that Act relating to the collection and use of information do not apply to information relating to or provided by a licence holder under the **Office of the Regulator-General Act 1994** or any relevant legislation, or that is provided to the Office in accordance with the requirements of any relevant legislation.

*Clause 52* amends section 27c (3) (a) of the **Office of the Regulator-General Act 1994** to permit the Office of the Regulator-General to disclose information obtained under the Act to the members of a committee or panel acting under a delegation of powers under section 22 of that Act.

The clause amends section 39 of the **Office of the Regulator-General Act 1994** to extend indemnity from personal liability for matters or things done in good faith for the purpose of carrying out a function or exercising a power under the **Office of the Regulator-General Act 1994**, to a member of a committee or panel acting under a delegation of powers under section 22 of that Act.

## **PART 7—AMENDMENT OF STATE ELECTRICITY COMMISSION ACT 1958**

*Clause 53* amends section 9c of the **State Electricity Commission Act 1958** to provide that control of the day to day administration of SEC is to be by the Administrator.

Section 26A of the **State Electricity Commission Act 1958** is amended to permit electricity corporations to make departures from the Kiewa, Hazelwood, Newport and Yallourn W power schemes as appear from time to time to be necessary or expedient.

Part III of the **State Electricity Commission Act 1958** (the provisions relating to the Yallourn works area) are repealed.

Section 45A (1) (a) and 45B (1) (b) of the **State Electricity Commission Act 1958** are amended by omitting the words “by the Commission, an electricity corporation or an undertaker”.

Sections 61 and 62 of the **State Electricity Commission Act 1958** are amended to provide that an electricity corporation's powers under those sections are to be exercised subject to any code issued by the Office of the Regulator-General.

*Clause 54* abolishes the Coal Corporation of Victoria by repealing Part VIA of the **State Electricity Commission Act 1958**. All property and rights of the Coal Corporation will vest in the SEC, all liabilities of the Coal Corporation will become liabilities of the SEC and the SEC becomes the Coal Corporation's successor in law.

*Clause 55* amends section 85c of the **State Electricity Commission Act 1958** to limit to public distribution and generation companies the liability of electricity corporations to reimburse the State where amounts have been paid by the Treasurer to fulfil liabilities arising under guarantees or indemnities on behalf of the State.

*Clause 56* inserts a new section 103 in the **State Electricity Commission Act 1958** to give the SEC power to acquire by agreement or compulsorily land that in its opinion and with the approval of the Governor in Council is required for or in connection with its functions, other than its functions under section 12B of that Act.

## **PART 8—AMENDMENT OF STATE OWNED ENTERPRISES ACT 1992**

*Clause 57* inserts an additional clause in the definition of “relevant Minister” in section 3 of the **State Owned Enterprises Act 1992** to provide that in relation to a State body, the Minister designated as the relevant Minister in the Order establishing the State body or if no Minister is so designated, the Treasurer, is the relevant Minister.

*Clause 58* inserts a new section 13A in the **State Owned Enterprises Act 1992** which provides that the Treasurer may require a reorganised body to prepare and deliver financial information, a business plan, an annual report or a report on matters specified by the Treasurer.

*Clause 59* amends section 14 of the **State Owned Enterprises Act 1992** by inserting a provision permitting an Order establishing a State body to designate a Minister as the relevant Minister.

*Clause 60* amends section 39 of the **State Owned Enterprises Act 1992** to make the provision with respect to directors' indemnities for State business corporations more consistent with the equivalent provision of the Corporations Law.

*Clause 61* amends section 41 of the **State Owned Enterprises Act 1992** by providing that a business plan shall contain such information as the Treasurer or the relevant

Minister requires and that financial statements shall contain such information as the Treasurer requires.

*Clause 62* inserts new sub-sections (3A), (3B) and (3C) in the **State Owned Enterprises Act of 1992** to permit a review of a tax equivalent determination made in respect of a State Owned enterprise under the **State Owned Enterprises Act 1992**.

*Clause 63* amends section 88A of the **State Owned Enterprises Act 1992** by extending the tax equivalent regime to a company all the shares in which are held by or on behalf of the State or a statutory corporation.

*Clause 64* makes a minor amendment to section 90 (2) of the **State Owned Enterprises Act of 1992** by substituting “Public Statutory Body” for “authority”.

## **PART 9—AMENDMENT OF WATER ACT 1989**

*Clause 65* amends sections 9 (2) (c) of the **Water Act 1989** to provide that VPX, Generation Victoria, Power Net Victoria or a distribution or generation company, have the right to bulk entitlements of water for any purpose connected with the exercise of their functions or powers.

*Clause 66* inserts a new section 185 (3) in the **Water Act 1989** to allow the Governor in Council to declare a bulk entitlement to water in a designated waterway held by a generation company to be a declared bulk entitlement. A new section 186 (1A) is inserted which provides that functions or powers exercised by an authority under Part 10 of the **Water Act 1989** must not be exercised inconsistently with the provisions of any declared bulk entitlement.

Section 193 (2) of the **Water Act 1989** is amended to provide that an authority controlling a designated waterway or designated land or works must not close access to any person who holds a declared bulk entitlement.

Section 194 of the **Water Act 1989** is amended to provide that a person other than a public statutory body, licensee or holder of a declared bulk entitlement, must not without the Authority's consent or other authorisation, cause or permit works to be undertaken which interfere with designated land or works or the quality, quantity or flow of water in designated land or works.

## **PART 10—CONSEQUENTIAL AMENDMENTS**

*Clause 67* inserts a new heading “Division 1—Mining” in Division 1 of Part 2 of the **Electricity Industry Act 1993** and repeals sections 7 to 12 of the **Electricity Industry Act 1993**.

Section 8 (c) of the **Electricity Industry (Further Amendment) Act 1994** is also repealed.

*Clause 68* provides for consequential amendments to other Acts as set out in Schedule 1.

