

Electricity Industry (Further Miscellaneous Amendment) Bill

EXPLANATORY MEMORANDUM

The Bill provides for further amendments to the **Electricity Industry Act 1993**, the **National Electricity (Victoria) Act 1997** and certain other acts.

PART 1—PRELIMINARY

- Clause 1 sets out the purpose of the Act.
- Clause 2 provides for the commencement of the Act. Except for the provisions in sub-clause (2), which will come into operation on a day or days to be proclaimed, the Act comes into operation on the day on which it receives the Royal Assent. The provisions in sub-clause (2) are unable to commence on a named day as their commencement must coincide with the commencement of the national electricity market.

PART 2—AMENDMENT OF THE ELECTRICITY INDUSTRY ACT 1993

This Part makes various miscellaneous amendments to the **Electricity Industry Act 1993**.

- Clause 3 states that the **Electricity Industry Act 1993** is the Principal Act for the purposes of this Act.
- Clause 4 inserts definitions of "licence" and "licensee" by reference to section 162 of the Principal Act. The clause also inserts definitions of "National Electricity Code" and "NEMMCO", which are defined by reference to the National Electricity (Victoria) Law, and a definition of "wholesale electricity market".
- Clause 5 amends section 44A of the Principal Act by substituting "carriage service" for "telecommunications service" and substituting the Telecommunications Act 1997 (Commonwealth) for the Telecommunications Act 1991 (Commonwealth).

- Clause 6 amends section 9 of the Principal Act by making the functions of Generation Victoria subject to the National Electricity (Victoria) Law and the National Electricity Code.
- Clause 7 inserts a new section 84AAA in the Principal Act which provides that the Minister may declare that specified assets that are affixed to land and that are disposed of by a public transmission company or public generation company are taken to be chattels personal and not fixtures.
- Clause 8 amends section 158B(2) of the Principal Act by substituting "wholesale electricity market" for "market for wholesale trading in electricity operated and administered by VPX". Clause 8 also repeals section 159(2) of the Principal Act, makes a consequential amendment to section 159(3), and omits the words "operated and administered by VPX" from section 171(9)(b).
- Clause 9 amends section 153TQ(1) of the Principal Act by adding VPX to the definition of "transferor company". Clause 9 also inserts a new sub-section 153TR(2) which provides that the Treasurer may nominate VPX as a transferor company for the purposes of Part 11AC of the Principal Act.
- Clause 10 inserts a new section 153TUA in the Principal Act which provides that if, in an agreement for the sale of the business or assets of a TCO, a value is ascribed to property, rights or liabilities allocated to a TCO transferee, the value is deemed to be consideration paid to, or received by, the TCO.
- Clause 11 inserts a new section 155A in the Principal Act which provides that the Australian Competition and Consumer Commission (ACCC) and the members of the ACCC may perform such functions and exercise such powers as the Office of the Regulator-General has in relation to regulation of charges for connection to, and use of, the transmission system which are conferred on the ACCC by an agreement entered into by the State with the Commonwealth and the ACCC. The agreement is to be published in the Government Gazette and commences on that date or such later date as is specified in the agreement. The section allows the Office of the Regulator-General to give the ACCC certain information relevant to the functions and powers conferred on the ACCC.

- Clause 12 amends section 158(1)(b)(iii) and section 158A(1)(c) of the Principal Act with the effect that regulation of charges for connection to, and the use of, the transmission system by the Office of the Regulator-General is subject to any Order made under proposed section 158(2). Proposed section 158(2) allows the Governor in Council to make an Order declaring that charges for connection to, and the use of the transmission system are subject to the regulation of the ACCC under an agreement entered into under proposed section 155A and are not subject to the regulation of the Office of the Regulator-General.
- Clause 13 amends section 163AAA of the Principal Act with the effect that the obligation of a distribution company to supply non-franchise customers can apply when the customer's retailer's licence is suspended or revoked and makes certain other amendments to clarify the intention of the provisions so amended.
- Clause 14 amends section 171 of the Principal Act by extending the definition of licensee to a transmission company, other than a public transmission company.
- Clause 15 inserts a new section 173A in the Principal Act which will allow the Treasurer to declare that a specified person does not have a prohibited interest during a specified period of up to six months. A declaration may be subject to such conditions as are specified in it. Section 173A(3) provides that the declaration ceases to have effect at the end of the specified period or upon breach of the condition to which it is expressed to be subject.

PART 3—VICTORIAN ENERGY NETWORK

- Clause 16 inserts a definition of "VENCORP" in section 3 of the Principal Act.
- Clause 17 substitutes a new Part 2A in the Principal Act which specifies certain functions of VENCORP.
- Clause 18 inserts new definitions of "VPX", "Victorian Power Exchange" and repeals the definition of "PoolCo" in the Principal Act.
- Clause 19 inserts a new section 8CA in the **Gas Industry Act 1994** which provides that VENCORP has the functions and powers conferred on it under the Principal Act.

PART 4—AMENDMENT OF OTHER ACTS

- Clause 20 inserts a new section 8A in the **National Electricity (Victoria) Act 1997** which provides that certain proceedings may not be brought in respect of an alleged contravention of the National Electricity Code and provides that it is the intention of section 8A to alter or vary section 85 of the **Constitution Act 1975**.
- Clause 21 repeals section 10 of the **Electricity Industry (Miscellaneous Amendment) Act 1997** and makes a consequential amendment to section 2(2).
- Clause 22 repeals various sections of the **Loy Yang B Act 1992**.
- Clause 23 amends section 63(1) of the **State Owned Enterprises Act 1992** by providing that the Treasurer's declaration of the existing capital of the converting body applies as at date specified in the declaration.
- Clause 24 inserts a new section 88AA in the **State Owned Enterprises Act 1992** which will allow the Treasurer to give a direction under section 88(1) of that Act in respect of a financial year beginning on 1 July 1994 or any later period to certain State bodies as defined in the section which have been liable to pay Commonwealth income and sales tax but have been declared exempt from that liability.
- Clauses 25, 26 and 28 amend the **Crown Land (Reserves) Act 1978**, the **Forests Act 1958** and the **Land Act 1958** so as to give the Minister power to enter into an agreement with an electricity company to manage or control, or carry out duties, functions and powers in relation to the company's purpose on any reserved land, any area of reserved forest area or any Crown land other than land that is a reference area under the **Reference Areas Act 1978**. The agreement must relate to an area that is used for the purposes of or in connection with the company's purpose as defined.
- Clause 27 inserts a definition of "generation company" into section 57B and 57C of the **Forests Act 1958**.
- Clause 29 amends the **National Parks Act 1975** so as to give the Minister power to enter into an agreement with a distribution or

transmission company to manage or control, or carry out duties, functions and powers in relation to the company's purpose in certain park areas. The agreement must relate to an area that is used for the purposes of or in connection with the company's purpose as defined.

Clauses 30 inserts a definition of "generation company" into section 30AA of the **National Parks Act 1975** and makes a consequential amendment to section 30AB of that Act.

