



New South Wales

Energy Legislation Amendment (Clean Energy Future) Bill 2024

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to make miscellaneous amendments relating to the supply of energy in New South Wales to the following Acts—

- (a) the *Electricity Infrastructure Investment Act 2020*,
- (b) the *Electricity Supply Act 1995*,
- (c) the *Pipelines Act 1967* (the **PA**),
- (d) the *Energy and Utilities Administration Act 1987* (as amended by the *Energy Legislation Amendment Act 2023*),
- (e) the *Land Acquisition (Just Terms Compensation) Act 1991*.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Electricity Infrastructure Investment Act 2020 No 44

Schedule 1[1] provides that the Minister for Energy (the *Minister*) must not direct a network operator to carry out a priority transmission infrastructure project unless the Minister is satisfied that it is an appropriate response to—

- (a) a target breach identified in an energy security target monitor report, or
- (b) a forecast system shortfall in system security services identified in the most recent integrated system plan published by AEMO under the *National Electricity Rules*.

Schedule 1[2] and [3] make consequential amendments.

Schedule 2 Amendment of Electricity Supply Act 1995 No 94

Schedule 2[1] makes it an offence for a person to operate a transmission system that is the subject of a network operator's authority under the *Electricity Infrastructure Investment Act 2020* without a transmission operator's licence. The maximum penalty is 5,000 penalty units.

Schedule 2[2] allows regulations to provide for a scheme that limits the recovery by a network service provider of charges from a person who uses or intends to use electricity to produce green hydrogen.

Schedule 2[3] provides that the regulations may deal with the following—

- (a) specifying whether electricity is taken to be used to produce green hydrogen,
- (b) providing that the Minister may require persons to provide certain information to the Minister,
- (c) limiting the operation of the scheme for persons who use or intend to use electricity to produce green hydrogen to either or both of the following—
 - (i) persons approved by the Minister,
 - (ii) persons who own facilities, or parts of facilities, approved by the Minister,
- (d) prescribing eligibility criteria for applicants for the Minister's approval and requirements for applications for the Minister's approval,
- (e) matters relating to the granting and revocation of approvals.

Schedule 2[4] makes it clear that the definition of *market customer* has the same meaning as in the *National Electricity Rules*.

Schedule 2[5] and [6] allow the regulations to provide that a purchase or supply of electricity is not a liable acquisition for certain purposes.

Schedule 3 Amendment of Pipelines Act 1967 No 90

Schedule 3[1] updates the definition of *Department* following a machinery of government change.

Schedule 3[4] provides that a person who does not hold a licence to construct or operate a pipeline does not commit an offence if the person carries out an act—

- (a) in an emergency in which there is a likelihood of loss or injury, the act is carried out to avoid the loss or injury, and the person notifies the Secretary of the Department of Climate Change, Energy, the Environment and Water (the *Secretary*) of the act as soon as is practicable, or
- (b) for the purpose of maintaining a pipeline in good order or repair and notifies the Secretary of the act as soon as is practicable, or
- (c) in compliance with a direction under the PA or the regulations.

Schedule 3[21] provides that the regulations may deal with the powers and functions of a body or person conducting an inquiry or examination of pipelines.

Schedule 3[31] sets out the directions the Minister and Secretary may give to certain persons and public authorities in relation to pipelines. Schedule 3[30], [32] and [33] make consequential amendments.

Schedule 3[34] makes it a continuing offence for a person to not comply with something the person is required to do, or stop doing, under the PA or the regulations (a *continuing requirement provision*). A person who is guilty of an offence because the person contravenes a continuing requirement provision—

- (a) continues, until the requirement is complied with and despite the fact a specified period has expired or time has passed, to be liable to comply with the requirement, and
- (b) is guilty of a continuing offence for each day the contravention continues.

Schedule 3[36] and [37] authorise the Governor to make regulations about the following matters—

- (a) the construction, maintenance and operation of pipelines,
- (b) licences,
- (c) the inspection of pipelines,
- (d) the keeping of registers under the PA,
- (e) the escape or ignition of substances from a pipeline,
- (f) the prevention of damage to pipelines or land used for the construction or operation of pipelines,
- (g) land used for the construction or operation of a pipeline,
- (h) the carrying out of surveys for the purposes of the PA,
- (i) notifications and reports for the purposes of the PA,
- (j) requiring persons to provide certain information to the Minister or the Secretary,
- (k) directions to licensees to take certain action in relation to a cyber security incident,
- (l) directions to licensees about the use of pipelines,
- (m) directing a licensee to remove property brought onto land in connection with a pipeline and make good land damaged in connection with a pipeline,
- (n) inspectors,
- (o) the transfer of instruments and other instruments creating interests,
- (p) auditing of pipeline management systems.

Schedule 3[2], [3], [5]–[20], [22]–[29] and [35] make consequential amendments.

Schedule 4 Amendment of Energy and Utilities Administration Act 1987 No 103, as amended by Energy Legislation Amendment Act 2023 No 49

Schedule 4[1] provides that the Energy Corporation of New South Wales (the *Corporation*) is subject to the control and direction of the Secretary, but only to the extent necessary to enable the Secretary to exercise the Secretary's functions.

Schedule 4[2] provides that it is a function of the Board of the Corporation (the *Board*) to ensure the proper and efficient performance of the functions of the Corporation and the Chief Executive Officer. **Schedule 4[3]** makes it clear that the Board must not direct the Chief Executive Officer in relation to employer functions the Chief Executive Officer may have under the *Government Sector Employment Act 2013*. **Schedule 4[4]** provides that the Board may establish committees to assist the Board in connection with the Board's functions.

Schedule 4[5] provides that, to the extent of an inconsistency, a direction of the Minister or the Secretary to the Corporation prevails over a policy or direction of the Board.

Schedule 4[6] amends the definition of *protected person* to include a member of an advisory committee of the Corporation and a member of a committee of the Board. A protected person is

not personally subject to civil liability for anything done or omitted to be done in certain circumstances.

Schedule 4[7] provides that the Corporation must, before the beginning of each financial year, prepare a corporate plan for the financial year and sets out the requirements for the corporate plan and supply of information to the Minister.

Schedule 4[8] provides that the person acting in the office of the Board member who is the Chairperson has, when acting, all the functions of the Chairperson and is taken to be the Chairperson.

Schedule 4[9] contains a transitional provision that sets out arrangements for the person employed in the Public Service under the *Government Sector Employment Act 2013* as the Chief Executive Officer immediately before the commencement of the *Energy Legislation Amendment Act 2023* and arrangements for the corporate plan for the 2024–2025 financial year.

Schedule 5 Amendments relating to financial benefits to landowners for transmission infrastructure

Schedule 5.1 Electricity Supply Act 1995 No 94

Schedule 5.1[1] provides that payments made to land owners for hosting electricity transmission infrastructure on their land (*strategic benefit payments*) are to be disregarded when calculating compensation payable to the land owner under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Schedule 5.1[3] and [4] provide for the Minister to impose a condition on a transmission operator's licence requiring the transmission operator to make strategic benefit payments and for the Minister to issue guidelines for those payments, including as to the eligibility of land owners to receive payments, the calculation of payments and the resolution of disputes.

Schedule 5.1[5] provides for the management of funds collected by transmission operators from electricity consumers for the payment of strategic benefit payments to landowners and, if those funds are unable to be paid to landowners, for the payment of the funds and the ongoing management of the funds through the Consolidated Fund of the Treasury.

Schedule 5.1[6] contains a transitional provision that provides for the amendments made by Schedule 5.1[1] to apply to an acquisition of land that occurred before the commencement of the amendment.

Schedule 5.1[2] and [7] make minor amendments of a statute law nature.

Schedule 5.2 Amendment of Energy and Utilities Administration Act 1987 No 103

Schedule 5.2[1] provides that payments made to land owners for hosting electricity transmission infrastructure on their land (*strategic benefit payments*) are to be disregarded when calculating compensation payable to the land owner under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Schedule 5.2[2] contains a transitional provision that provides for the amendments made by Schedule 5.2[1] to apply to an acquisition of land that occurred before the commencement of the amendment.

Schedule 5.3 Land Acquisition (Just Terms Compensation) Act 1991 No 22

Schedule 5.3 makes a consequential amendment.