TASMANIA

ELECTRICITY SUPPLY INDUSTRY
(MISCELLANEOUS AMENDMENTS) BILL 2005

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ELECTRICITY SUPPLY INDUSTRY (MISCELLANEOUS AMENDMENTS) BILL 2005

(Brought in by the Treasurer, the Honourable Paul Anthony Lennon)

A BILL FOR


Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the Electricity Supply Industry (Miscellaneous Amendments) Act 2005.

2. Commencement

(1) Sections 1 and 3, Parts 2, 4, 7, 9 and 11 and this section commence on the day on which this Act receives the Royal Assent.
(2) The remaining provisions of this Act commence on a day to be proclaimed.

3. **Effect of miscellaneous amendments**

   The amendment by this Act of a provision of any regulations does not prevent that provision or any other provision of those regulations from being amended or rescinded by a subsequent regulation.
PART 2 – ELECTRICITY SUPPLY INDUSTRY ACT 1995 AMENDED

4. Principal Act

In this Part, the Electricity Supply Industry Act 1995* is referred to as the Principal Act.

5. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

(a) by omitting the definition of “Australian Competition and Consumer Commission” and substituting the following definition:

“AER” means the Australian Energy Regulator established by section 44AE of the Trade Practices Act 1974 of the Commonwealth;

(b) by omitting “National Electricity Code” from the definition of “Jurisdictional Regulator” and substituting “National Electricity Rules”;

(c) by omitting the definition of “National Electricity Code”;

(d) by omitting “National Electricity Code” from the definition of “National Electricity Market” and substituting “National Electricity Rules”;

*No. 58 of 1995
(e) by inserting the following definition after the definition of “National Electricity Market”:

“National Electricity Rules” means –

(a) the Rules made under section 90(1) of the National Electricity Law; and

(b) the National Electricity Rules made under section 34 of the National Electricity Law by the Australian Energy Market Commission established by section 5 of the Australian Energy Market Commission Establishment Act 2004 of South Australia;

6. Section 6 amended (Regulator’s functions and powers)

Section 6 of the Principal Act is amended as follows:

(a) by omitting from subsection (1)(c) “National Electricity Code” and substituting “National Electricity Rules”;

(b) by omitting from subsection (4) “National Electricity Code” twice occurring and substituting “National Electricity Rules”;
(c) by omitting from subsection (5)(b) “National Electricity Code” and substituting “National Electricity Rules”;

(d) by omitting from subsection (6) “National Electricity Code” and substituting “National Electricity Rules”;

(e) by omitting from subsection (6)(a) “that Code” and substituting “those Rules”;

(f) by omitting from subsection (6)(b) “that Code” and substituting “those Rules”.

7. **Section 15 amended (Regulator’s power to require information)**

Section 15(1) of the Principal Act is amended by omitting “National Electricity Code” and substituting “National Electricity Rules”.

8. **Part 2, Division 7: Heading amended**

Division 7 of Part 2 of the Principal Act is amended by omitting “Australian Competition and Consumer Commission” from the heading to that Division and substituting “AER”.

9. **Section 16A amended (Conferral agreement)**

Section 16A of the Principal Act is amended by omitting “Australian Competition and Consumer Commission” and substituting “AER”.

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2005 *Electricity Supply Industry (Miscellaneous Amendments) No. s. 7*
10. **Section 16B amended (Conferral notice)**

Section 16B of the Principal Act is amended as follows:

(a) by omitting from subsection (1) “Australian Competition and Consumer Commission” and substituting “AER”;

(b) by omitting from subsection (2)(b) “Australian Competition and Consumer Commission” and substituting “AER”.

11. **Section 16C amended (Conferral of transmission pricing functions and powers)**

Section 16C of the Principal Act is amended as follows:

(a) by omitting from subsection (1) “Australian Competition and Consumer Commission” first occurring and substituting “AER”;

(b) by omitting from subsection (1)(a) “Australian Competition and Consumer Commission” and substituting “AER”;

(c) by omitting paragraph (b) from subsection (1) and substituting the following paragraph:

(b) at the discretion of the AER, may be performed or exercised by the AER.
(d) by omitting from subsection (2) “Australian Competition and Consumer Commission” and substituting “AER”;  
(e) by omitting from subsection (3) “Australian Competition and Consumer Commission” and substituting “AER”;  
(f) by omitting from subsection (4) “Australian Competition and Consumer Commission” and substituting “AER”;  
(g) by omitting from subsection (4)(a) “that Commission” and substituting “the AER”;  
(h) by omitting from subsection (4)(b) “that Commission” and substituting “the AER”;  
(i) by omitting from subsection (4)(c) “that Commission” and substituting “the AER”;  
(j) by omitting from subsection (5) “Australian Competition and Consumer Commission” and substituting “AER”;  
(k) by omitting from subsection (6) “Australian Competition and Consumer Commission” and substituting “AER”.

12. Section 16D amended (Termination of conferral agreement)

Section 16D of the Principal Act is amended as follows:
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(a) by omitting from paragraph (a) “Australian Competition and Consumer Commission” and substituting “AER”;

(b) by omitting from paragraph (b) “Australian Competition and Consumer Commission” and substituting “AER”;

(c) by omitting from paragraph (c) “that Commission” and substituting “the AER”.

13. Section 36 amended (Ministerial notice relating to Basslink)

Section 36(1) of the Principal Act is amended as follows:

(a) by omitting from paragraph (a) “National Electricity Code” and substituting “National Electricity Rules”;

(b) by omitting from paragraph (b)(ii) “National Electricity Code” and substituting “National Electricity Rules”.

14. Section 49AA amended (Retailer of last resort)

Section 49AA(2)(a)(ii) of the Principal Act is amended by omitting “National Electricity Code” and substituting “National Electricity Rules”.

15. **Section 49A amended (Tasmanian Electricity Code)**

Section 49A(8) of the Principal Act is amended by omitting “National Electricity Code” and substituting “National Electricity Rules”.

16. **Section 49B amended (Review, amendment and replacement of Code)**

Section 49B(4) of the Principal Act is amended as follows:

(a) by omitting from paragraph (b) “National Electricity Code” and substituting “National Electricity Rules”;

(b) by omitting from paragraph (c) “Australian Competition and Consumer Commission” and substituting “AER”;

(c) by omitting from paragraph (d) “National Electricity Code” and substituting “National Electricity Rules”.

17. **Section 122 amended (Regulations)**

Section 122 of the Principal Act is amended as follows:

(a) by omitting from subsection (2BA) “National Electricity Code” first occurring and substituting “National Electricity Rules”;

(b) by omitting from subsection (2BA)(c) “National Electricity Code contemplates”
and substituting “National Electricity Rules contemplate”;

(c) by omitting from subsection (2BB)(a)(ii) “National Electricity Code” and substituting “National Electricity Rules”.
PART 3 – ELECTRICITY SUPPLY INDUSTRY ACT
1995 FURTHER AMENDED

18. Principal Act

In this Part, the *Electricity Supply Industry Act 1995* is referred to as the Principal Act.

19. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

(a) by omitting “networks” from paragraph (d) of the definition of “Basslink” and substituting “systems”;

(b) by omitting “network” first occurring from the definition of “customer” and substituting “system”;

(c) by omitting “network” first occurring from paragraph (a) of the definition of “customer” and substituting “system”;

(d) by omitting “network” third occurring from paragraph (a) of the definition of “customer” and substituting “transmission system or distribution network”;

(e) by omitting “network” from the definition of “transmission” and substituting “system”;

*No. 58 of 1995*
(f) by omitting the definition of “transmission network” and substituting the following definition:

“transmission system” has the same meaning as in the National Electricity Rules;

20. Section 3A amended (Meaning of distribution network and electricity generating plant)

Section 3A of the Principal Act is amended as follows:

(a) by omitting subsection (2);

(b) by omitting from subsection (4) “network” second occurring and substituting “system”;

(c) by omitting from subsection (5)(a) “network” second occurring and substituting “system”;

(d) by omitting from subsection (5)(b) “network” second occurring and substituting “system”.

21. Section 18 amended (Application for licence)

Section 18(1)(c) of the Principal Act is amended as follows:

(a) by inserting in subparagraph (i) “system” after “transmission”;

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(b) by omitting from subparagraph (ii) “network” five times occurring and substituting “system”.

22. **Section 19 amended (Consideration of application)**

Section 19(2) of the Principal Act is amended as follows:

(a) by inserting in paragraph (c) “system” after “transmission”;

(b) by omitting from paragraph (d) “network” three times occurring and substituting “system”.

23. **Section 24A amended (Licence condition relating to system security capability)**

Section 24A(2) of the Principal Act is amended by omitting “network” and substituting “system”.

24. **Section 25 amended (Licences conferring exclusive retail franchise)**

Section 25(2)(b) of the Principal Act is amended by omitting “network” second occurring and substituting “system”.
Section 109 amended (Unlawful interference with electricity infrastructure or electrical installation)

Section 109(1) of the Principal Act is amended as follows:

(a) by inserting in paragraph (a) “system” after “transmission”;

(b) by inserting in paragraph (b) “system” after “transmission”.

PART 4 – ELECTRICITY - NATIONAL SCHEME (TASMANIA) ACT 1999 AMENDED

26. Principal Act

In this Part, the *Electricity - National Scheme (Tasmania) Act 1999* is referred to as the Principal Act.

27. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by omitting the definitions of “Australian Competition and Consumer Commission” and “National Electricity Code”.

28. Part 2: Heading amended

Part 2 of the Principal Act is amended by omitting “LAW, NATIONAL ELECTRICITY (TASMANIA) REGULATIONS AND NATIONAL ELECTRICITY CODE” from the heading to that Part and substituting “LAW AND NATIONAL ELECTRICITY (TASMANIA) REGULATIONS”.

29. Section 8A repealed

Section 8A of the Principal Act is repealed.

*No. 28 of 1999*
30. Principal Act

In this Part, the Electricity Companies Act 1997* is referred to as the Principal Act.

31. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

(a) by omitting “network” first occurring from the definition of “dispose of” and substituting “system”; 

(b) by omitting “network” third occurring from the definition of “dispose of” and substituting “system”; 

(c) by omitting “network” twice occurring from paragraph (a) of the definition of “dispose of” and substituting “transmission system or distribution network”; 

(d) by omitting “network” twice occurring from paragraph (b) of the definition of “dispose of” and substituting “transmission system or distribution network”;

*No. 69 of 1997
(e) by omitting the definition of “transmission network” and substituting the following definition:

“transmission system” has the same meaning as in the *Electricity Supply Industry Act 1995*.

### 32. Section 20 amended (Limitations on members of company)

Section 20(3) of the Principal Act is amended as follows:

(a) by omitting “network” first occurring and substituting “system”;

(b) by omitting “network” third occurring and substituting “system”.

### 33. Schedule 1 amended (Provisions to be included in memorandum and articles)

Clause 4(d) of Part 2 of Schedule 1 to the Principal Act is amended as follows:

(a) by omitting “network” first occurring and substituting “system”;

(b) by omitting “network” third occurring and substituting “system”;

(c) by omitting “network” fifth occurring and substituting “transmission system or distribution network”.

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PART 6 – ELECTRICITY SUPPLY INDUSTRY (CONTESTABLE CUSTOMER) REGULATIONS 2005 AMENDED

34. Principal Regulations

In this Part, the Electricity Supply Industry (Contestable Customer) Regulations 2005* are referred to as the Principal Regulations.

35. Regulation 4 amended (Application of regulations)

Regulation 4 of the Principal Regulations is amended as follows:

(a) by omitting from paragraph (a) “network” and substituting “system”;

(b) by omitting from paragraph (b) “network” first occurring and substituting “transmission system”.

36. Regulation 5 amended (Customer retail services)

Regulation 5 of the Principal Regulations is amended as follows:

(a) by omitting from paragraph (a) “network” second occurring and substituting “system”;

(b) by omitting from paragraph (b) “network” second occurring and substituting “system”.

*S.R. 2005, No. 88
PART 7 – ELECTRICITY SUPPLY INDUSTRY (PRICE CONTROL) REGULATIONS 2003 AMENDED

37. Principal Regulations

In this Part, the Electricity Supply Industry (Price Control) Regulations 2003* are referred to as the Principal Regulations.

38. Regulation 3 amended (Interpretation)

Regulation 3 of the Principal Regulations is amended as follows:

(a) by omitting “National Electricity Code” from the definition of “jurisdictional derogations” and substituting “National Electricity Rules”;

(b) by omitting “Australian Competition and Consumer Commission” from the definition of “jurisdictional derogations” and substituting “AER”;

(c) by omitting “National Electricity Code” from paragraph (c) of the definition of “relevant tax” and substituting “National Electricity Rules”.

*S.R. 2003, No. 54
39. Regulation 16 amended (Revocation or amendment of transmission revenue cap determination)

Regulation 16(1)(d) of the Principal Regulations is amended by omitting “Australian Competition and Consumer Commission” and substituting “AER”.

40. Regulation 17 amended (Costs of investigations and determinations)

Regulation 17(3) of the Principal Regulations is amended by omitting “Australian Competition and Consumer Commission” and substituting “AER”.

41. Regulation 21 amended (Revocation of declaration of declared electrical service)

Regulation 21(1) of the Principal Regulations is amended by omitting “National Electricity Code” and substituting “National Electricity Rules”.

42. Regulation 22 amended (Revocation of certain declarations of declared electrical service at NEM entry time)

Regulation 22(c) of the Principal Regulations is amended by omitting “National Electricity Code” and substituting “National Electricity Rules”.
43. **Regulation 32 amended (Principles to be given effect)**

Regulation 32(1) of the Principal Regulations is amended by omitting “National Electricity Code” from paragraph (b) of the definition of “relevant code” and substituting “National Electricity Rules”.

44. **Regulation 39 amended (Determinations of AER not reviewable)**

Regulation 39 of the Principal Regulations is amended by omitting “Australian Competition and Consumer Commission” and substituting “AER”.
PART 8 – ELECTRICITY SUPPLY INDUSTRY (PRICE CONTROL) REGULATIONS 2003 FURTHER AMENDED

45. Principal Regulations

In this Part, the *Electricity Supply Industry (Price Control) Regulations 2003* are referred to as the Principal Regulations.

46. Regulation 16 amended (Revocation or amendment of transmission revenue cap determination)

Regulation 16(1)(c) of the Principal Regulations is amended as follows:

(a) by omitting “networks” and substituting “systems”;  

(b) by omitting “network” and substituting “system”.

*S.R. 2003, No. 54*
PART 9 – ELECTRICITY SUPPLY INDUSTRY REGULATIONS 1996 AMENDED

47. Principal Regulations

In this Part, the *Electricity Supply Industry Regulations 1996* are referred to as the Principal Regulations.

48. Regulation 3 amended (Interpretation)

Regulation 3 of the Principal Regulations is amended by omitting “National Electricity Code” from the definition of “NEMMCO-registered electricity entity” and substituting “National Electricity Rules”.

*S.R. 1996, No. 158*
PART 10 – ELECTRICITY WAYLEAVES AND EASEMENTS ACT 2000 AMENDED

49. Principal Act

In this Part, the Electricity Wayleaves and Easements Act 2000* is referred to as the Principal Act.

50. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by omitting the definition of “transmission network” and substituting the following definition:

“transmission system” has the same meaning as in the Electricity Supply Industry Act 1995;

51. Section 6 amended (Map of transmission system)

Section 6(5) of the Principal Act is amended by omitting “network” three times occurring and substituting “system”.

*No. 64 of 2000
PART 11 – HYDRO-ELECTRIC CORPORATION ACT 1995 AMENDED

52. Principal Act

In this Part, the Hydro-Electric Corporation Act 1995* is referred to as the Principal Act.

53. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

(a) by omitting “National Electricity Code as established under the National Electricity Law” from the definition of “National Electricity Market” and substituting “National Electricity Rules”;

(b) by inserting the following definition after the definition of “National Electricity Market”:

“National Electricity Rules” has the same meaning as in the Electricity Supply Industry Act 1995;
PART 12 – HYDRO-ELECTRIC CORPORATION ACT
1995 FURTHER AMENDED

54. Principal Act

In this Part, the Hydro-Electric Corporation Act 1995* is referred to as the Principal Act.

55. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

(a) by omitting “networks” from paragraph (d) of the definition of “Basslink” and substituting “systems”;

(b) by omitting the definition of “transmission network” and substituting the following definition:

“transmission system” has the same meaning as in the Electricity Supply Industry Act 1995.