

TASMANIA

ENERGY CO-ORDINATION AND PLANNING AMENDMENT BILL 2018

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ENERGY CO-ORDINATION AND PLANNING AMENDMENT BILL 2018

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
27 November 2018

*(Brought in by the Minister for Energy, the Honourable Guy
Barnett)*

A BILL FOR

An Act to amend the *Energy Co-ordination and Planning Act 1995*

Be it enacted by Her 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:

1. Short title

This Act may be cited as the *Energy Co-ordination and Planning Amendment Act 2018*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

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3. Principal Act

In this Act, the *Energy Co-ordination and Planning Act 1995** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definitions before the definition of *Director*:

Assessor means the Monitor and Assessor for Energy Security appointed under section 8A;

Co-ordinator means the Energy Security Co-ordinator appointed under section 8D;

- (b) by inserting the following definition after the definition of *energy*:

energy in storage has the same meaning as in Schedule 1 to the *Electricity Supply Industry Regulations 2008*;

- (c) by omitting “process.” from paragraph (b) of the definition of *gas* and substituting “process;”;

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- (d) by inserting the following definitions after the definition of *gas*:

headwater storage has the same meaning as in Schedule 1 to the *Electricity Supply Industry Regulations 2008*;

HRL means the high reliability level specified by the Minister under section 3A(a);

HRL recovery plan means a recovery plan submitted in accordance with section 8G;

Hydro means the Hydro-Electric Corporation continued under the *Hydro-Electric Corporation Act 1995*;

National Electricity Market has the same meaning as in the *Electricity Supply Industry Act 1995*;

PSL means the prudent storage level specified by the Minister under section 3A(b);

PSL recovery plan means a recovery plan submitted in accordance with section 8F;

recovery plan includes the following:

- (a) an HRL recovery plan;

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(b) a PSL recovery plan;

Regulator means the Tasmanian Economic Regulator appointed under the *Economic Regulator Act 2009*.

5. Section 3A inserted

After section 3 of the Principal Act, the following section is inserted in Part 1:

3A. High reliability level and prudent storage level

The Minister may, by order, specify in respect of each month, a level of energy in storage to be –

- (a) the high reliability level; and
- (b) the prudent storage level.

6. Part 2A inserted

After section 8 of the Principal Act, the following Part is inserted:

**PART 2A – MONITOR AND ASSESSOR FOR
ENERGY SECURITY AND ENERGY SECURITY CO-
ORDINATOR**

Division 1 – Monitor and Assessor for Energy Security

8A. Monitor and Assessor for Energy Security

The Regulator is to be the Monitor and Assessor for Energy Security.

8B. Assessor's functions and powers

- (1) The Assessor has the following functions:
- (a) to monitor and provide reports in relation to energy in storage and other sources of energy;
 - (b) to evaluate, on a monthly basis, whether there is sufficient energy in storage and associated generation capacity to meet forecast electricity demand in the Tasmanian region of the National Electricity Market;
 - (c) to require Hydro to provide recovery plans in accordance with section 8F;
 - (d) to provide the Co-ordinator with a copy of any recovery plan and the Assessor's advice on the quality of the plan;

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- (e) to notify the Co-ordinator when energy in storage levels are likely to drop below the HRL;
 - (f) to monitor and evaluate the PSL and HRL and advise the Minister whether changes in the levels are required;
 - (g) such other functions as may be prescribed.
- (2) In addition to any other powers conferred on the Assessor, he or she has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of his or her functions.

8C. Reports by Assessor

- (1) The Assessor is to publish on the Assessor's website a monthly report in relation to energy in storage levels, the PSL and the HRL.
- (2) The Assessor, not later than 30 November each year, is to prepare and give to the Minister a report on the performance of the Assessor's functions and the exercise of the Assessor's powers under this Act in the preceding 12 months.
- (3) The report provided under subsection (2) is to include the following:

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- (a) an examination of the forecast energy in storage levels and forecast demand for energy;
 - (b) consideration of whether the energy in storage levels are likely to drop below the PSL or the HRL;
 - (c) a review of changes to the balance between supply and demand for energy, and recommendations to ensure the maintenance of security of energy supply;
 - (d) any other matters that the Assessor thinks appropriate.
- (4) The Assessor is to cause a copy of the report to be published on the Assessor's website.
- (5) If the Assessor considers that a change in the PSL or the HRL is required, the Assessor is to provide the Minister with advice to that effect.
- (6) In preparing the advice under subsection (5), the Assessor is to consult with Hydro.

Division 2 – Energy Security Co-ordinator

8D. Energy Security Co-ordinator

The Director is to be the Energy Security Co-ordinator.

8E. Functions and powers of Co-ordinator

- (1) The Co-ordinator has the following functions:
 - (a) to recommend to the Minister any action that the Co-ordinator considers should be taken in order to ensure that the State's energy requirements can be met;
 - (b) to manage electricity supply risks when energy in storage is at or below the HRL;
 - (c) to review any recovery plan provided to the Assessor by Hydro;
 - (d) such other functions as may be prescribed.
- (2) In addition to any other powers conferred on the Co-ordinator, he or she has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of his or her functions.

Division 3 – Recovery plans

8F. Assessor may require PSL recovery plan from Hydro

- (1) If the level of energy in storage is below the PSL and, in the Assessor’s opinion, it is reasonably possible that it will fall below the HRL, the Assessor may require Hydro to submit to the Assessor a PSL recovery plan, within a specified period.
- (2) If requested to do so under subsection (1), Hydro must submit a PSL recovery plan within the period specified.

8G. Assessor must require HRL recovery plan from Hydro

- (1) If, in the Assessor’s opinion, it is probable that the level of energy in storage will fall below the HRL, the Assessor must require Hydro to submit to the Assessor an HRL recovery plan, within a specified period.
- (2) If requested to do so under subsection (1), Hydro must submit an HRL recovery plan within the period specified.

8H. Information to be included in recovery plans

A recovery plan is to include the following information:

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- (a) details of any strategies that Hydro may implement for reducing the consumption of energy in storage and other sources of energy;
- (b) details of any strategies of which Hydro is aware for increasing the supply of energy other than energy in storage.

8I. Approval of HRL recovery plan

- (1) On receipt of an HRL recovery plan, the Assessor is to provide the Co-ordinator with a copy of the plan.
- (2) The Co-ordinator must review the HRL recovery plan.
- (3) In reviewing an HRL recovery plan, the Co-ordinator may require information from any person or body that the Co-ordinator considers relevant.
- (4) If the Co-ordinator is not satisfied that the HRL recovery plan adequately addresses the matters referred to in section 8H, the Co-ordinator is to liaise with Hydro to rectify any deficiencies in the HRL recovery plan.
- (5) Once any deficiencies in the HRL recovery plan have been rectified to the Co-ordinator's satisfaction, the amended

HRL recovery plan is to be submitted to the Assessor.

- (6) If an amended HRL recovery plan is submitted to the Assessor, the Assessor is to provide the Co-ordinator with a copy of the amended HRL recovery plan for review.
- (7) If the Co-ordinator is satisfied that the HRL recovery plan, whether as amended or not, adequately addresses the matters referred to in section 8H, the Co-ordinator is to –
 - (a) approve the HRL recovery plan; and
 - (b) advise Hydro, the Assessor and the Minister of that approval.

8J. Implementation and reporting of recovery plan

- (1) If the Co-ordinator approves a recovery plan, he or she must oversee and co-ordinate the implementation of the plan.
- (2) The Co-ordinator may require Hydro to provide reports on the progress of the implementation of the recovery plan as and when the Co-ordinator requires.
- (3) The Co-ordinator must provide reports on the progress of the implementation of

the recovery plan to the Minister as and when the Minister requires.

8K. Risk to electricity supply

If, in the Co-ordinator's opinion, there is a reasonable probability that energy in storage and associated generation capacity will not be sufficient to meet forecast demand for electricity in the Tasmanian region of the National Electricity Market, the Co-ordinator must advise the Minister of that risk and may recommend an appropriate course of action.

Division 4 – General

8L. Directions from Minister

- (1) The Minister may give directions in writing to –
 - (a) the Assessor with respect to the performance of the Assessor's functions; and
 - (b) the Co-ordinator with respect to the performance of the Co-ordinator's functions.
- (2) The directions may be given generally or in relation to a particular matter.

- (3) The Assessor and the Co-ordinator must perform their functions in accordance with the directions.

8M. Assessor and Co-ordinator may require information

The Assessor or the Co-ordinator may request a person to provide such information as the Assessor or Co-ordinator requires, including information by way of periodical returns at specified times, if –

- (a) the information is required to enable the Assessor or Co-ordinator to perform his or her functions; and
- (b) the Assessor or Co-ordinator has reasonable grounds for believing that the person is able to provide the information.

8N. Obligation to preserve confidentiality

- (1) The Assessor and the Co-ordinator must preserve the confidentiality of information that –
- (a) could affect the competitive position of an electricity entity or other person; or
 - (b) is commercially sensitive for some other reason.

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- (2) Information that is provided to the Assessor or the Co-ordinator on a confidential basis is not liable to disclosure under the *Right to Information Act 2009*.
- (3) Subsection (1) does not apply to the disclosure of information between persons engaged in the administration of this Act.

7. Section 13A inserted

After section 13 of the Principal Act, the following section is inserted in Part 4:

13A. Immunity from liability

The Director, when acting or purporting to act as Director or as Co-ordinator, or the Assessor or another person acting, or purporting to act, in good faith in the administration of this Act incurs no civil liability except –

- (a) a liability for negligence; and
- (b) a liability for which express provision is made by or under this Act.

8. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.