

TASMANIA

**ELECTRICITY SUPPLY INDUSTRY
RESTRUCTURING (SAVINGS AND
TRANSITIONAL PROVISIONS) AMENDMENT
BILL 2018**

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**ELECTRICITY SUPPLY INDUSTRY
RESTRUCTURING (SAVINGS AND
TRANSITIONAL PROVISIONS) 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*
2 May 2019

*(Brought in by the Minister for Primary Industries and Water,
the Honourable Guy Barnett)*

A BILL FOR

An Act to amend the *Electricity Supply Industry Restructuring (Savings and Transitional Provisions) 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 *Electricity Supply Industry Restructuring (Savings and Transitional Provisions) 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 *Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995** is referred to as the Principal Act.

4. Section 16A amended (Interpretation of Division)

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

(a) by omitting paragraph (a) from the definition of *entitlement holder* and substituting the following paragraph:

(a) in relation to land to which section 16(2)(b) of this Act applied immediately before the 2011 transition day – see section 16AB; and

(b) by inserting the following definition after the definition of *entitlement holder*:

former section 16C means section 16C as in force immediately before the commencement of the *Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Amendment Act 2018*;

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- (c) by inserting the following definition after the definition of *Lake River*:

water entitlement agreement means
an agreement that –

- (a) was made between the HEC and an entitlement holder under former section 16C; and
- (b) is taken to have been validly made by virtue of section 16C(2), as amended by the *Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Amendment Act 2018*;

5. Section 16AB inserted

After section 16A of the Principal Act, the following section is inserted in Division 2:

16AB. Entitlement holders for certain land

- (1) A person is an entitlement holder, in respect of land to which section 16(2)(b) of this Act applied immediately before the 2011 transition day, if –

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- (a) an order has not been made under section 16D(2) in respect of the land; and
 - (b) the person –
 - (i) was the owner of the land immediately before the 2011 transition day; or
 - (ii) if the land has been transferred on or after the 2011 transition day, is receiving the benefit of the water entitlement agreement made in respect of the land.
- (2) If an order has been made under section 16D(2) in respect of land to which section 16(2)(b) of this Act applied immediately before the 2011 transition day, a person is an entitlement holder in respect of the land if the person is the holder of a valid authorisation –
- (a) to take water under the *Irrigation Clauses Act 1973*, or the *Water Management Act 1999*, in respect of the land; and
 - (b) that is in accordance with the order made under section 16D(2) in respect of the land.

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6. Section 16C substituted

Section 16C of the Principal Act is repealed and the following section is substituted:

16C. Quantification of HEC obligation to supply certain water entitlements

(1) In this section –

commencement day means the day on which the *Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Amendment Act 2018* commences.

(2) For the purposes of this section, an agreement made, for the purposes of former section 16C, between the HEC and –

- (a) entitlement holders collectively;
or
- (b) groups of entitlement holders; or
- (c) individual entitlement holders; or
- (d) any combination under paragraphs (b) and (c) –

is taken to have been validly made under that section if approved by the Water Minister as such an agreement before the commencement day, whether or not the

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agreement was made during or after the 2011 transition period.

- (3) For the avoidance of doubt, an agreement that –
- (a) was in force immediately before the commencement day; and
 - (b) on and after the commencement day, is taken to be a water entitlement agreement –

remains in force, on the same terms and conditions, on the commencement day.

- (4) Subject to section 16E, the amount of water to be made available under section 16B(1) to an entitlement holder is the amount specified in the water entitlement agreement, as fixed by order under section 16D(2), that applies to the entitlement holder.
- (5) Despite subsection (4), a water entitlement agreement is not capable of providing for the suspension, relinquishment, phased reduction or extinction (by any means) of the HEC's obligation under section 16B(1) and a term of any such agreement purporting to make such provision is, to that extent, void and unenforceable.

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7. Section 16D amended (Orders providing for supply of certain water entitlements)

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

- (a) by omitting from subsection (1) “an agreement has been entered into or an arbitrated award has been made” and substituting “a water entitlement agreement has been validly made”;
- (b) by omitting from subsection (2) “covered by the agreement or arbitrated award”;
- (c) by omitting from subsection (3)(a) “covered by the agreement or arbitrated award”.

8. Repeal of Act

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