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K Woodward  
Chief Parliamentary Counsel  
Dated 3 October 2023



## TASMANIA

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# ELECTRICITY COMPANIES ACT 1997

No. 69 of 1997

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## **ELECTRICITY COMPANIES ACT 1997**

**No. 69 of 1997**

**An Act to provide for the establishment of companies in respect of the transmission, distribution and retailing of electricity in Tasmania and for related purposes**

**[Royal Assent 22 December 1997]**

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 Companies Act 1997*.

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**2. Commencement**

- (1) Sections 1, 24, 25, 26(3) and 27, this section and Schedules 2 and 3 commence on the day on which this Act receives the Royal Assent.
- (2) Except as provided in subsection (1), the remaining provisions of this Act commence on a day or days to be proclaimed.

**3. Interpretation**

In this Act –

*company* means a company formed under section 5;

*dispose of*, in relation to a transmission system, distribution network or part of a transmission system or distribution network, includes –

- (a) the giving by a company of a right by lease, licence or any other means which would be inconsistent with the company continuing to use, possess or occupy that transmission system or distribution network or that part of a transmission system or distribution network for the primary purpose for which the company was formed under section 5; and

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- (b) the disposal of that transmission system or distribution network or that part of a transmission system or distribution network by the company to its subsidiary;

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

***distribution network*** has the same meaning as in the *Electricity Supply Industry Act 1995*;

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

***incorporation*** means incorporation under the Corporations Act;

***incorporation day*** means the day on which a company is incorporated;

***liability*** includes any liability, duty and obligation, whether actual, contingent or prospective;

***member of a company*** means a member referred to in section 8;

***principal objectives*** means the principal objectives of a company specified in section 6;

***property*** means –

- (a) any legal or equitable estate or interest (whether present or future and whether vested or contingent)

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in real or personal property (other than Crown land, within the meaning of the *Crown Lands Act 1976*), including wayleaves; and

- (b) money, documents and securities; and
- (c) any other rights;

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

**right** includes any right, power, privilege and immunity, whether actual, contingent or prospective;

**subsidiary** has the same meaning as in the Corporations Act;

**transfer notice** means a notice made under section 10(2);

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

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

4. . . . .

## **PART 2 – COMPANIES**

### ***Division 1 – Formation and status of companies***

#### **5. Formation of companies**

- (1) The Minister may form, or participate in the formation of, one or more companies limited by shares that is or are to be incorporated under the Corporations Act, with each such company having as its primary purposes one or more of the following activities:
  - (a) the transmission of electricity;
  - (b) the distribution of electricity;
  - (c) the retailing of electricity;
  - (d) any other activity, other than the generation of electricity, related to or associated with the transmission, distribution or retailing of electricity.
- (2) If the Minister proposes to form, or participate in the formation of, a company under subsection (1), the Minister must lay before both Houses of Parliament a statement specifying –
  - (a) the intention to so form or participate in the formation of such a company; and
  - (b) the primary purposes of the company; and

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- (c) any other information the Minister considers appropriate.
- (3) The Minister may not form, or participate in the formation of, a company under subsection (1) unless the proposal in respect of that company referred to in subsection (2) has been approved by both Houses of Parliament.
- (4) A proposal referred to in subsection (2) is approved by a House of Parliament –
  - (a) when the House passes a motion approving the proposal; or
  - (b) at the end of 6 sitting days after the draft order was laid before the House if no notice of a motion to disapprove the proposal is before the House; or
  - (c) if such a notice is before the House at the end of that period, when the first of the following occurs:
    - (i) the notice is withdrawn;
    - (ii) the motion is negatived;
    - (iii) a further period of 6 sitting days ends.

**6. Principal objectives of company**

The principal objectives of a company on its incorporation are –

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- (a) to operate its activities in accordance with sound commercial practice; and
- (b) to maximise its sustainable return to its shareholders.

**7. Memorandum and articles of company**

- (1) The memorandum of association of a company on its incorporation is to include –
  - (a) the principal objectives of the company; and
  - (b) any other objectives of the company approved by the Minister; and
  - (c) a provision to the effect of the provision set out in Part 1 of Schedule 1.
- (2) The articles of a company on its incorporation are to include provisions to the effect of those set out in Part 2 of Schedule 1.
- (3) Other provisions of the memorandum and articles of association of a company on its incorporation are to be consistent with this Act.

**8. Members of company**

The members of a company on its incorporation are –

- (a) the Minister; and

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- (b) the Treasurer or, if the Treasurer is also the Minister, one other Minister of the Crown determined by the Treasurer.

**9. Shares**

- (1) The consideration for shares issued to the members of a company is any operation, property or right vested in the company by section 10(5).
- (2) Shares issued to the members of a company are held in trust for the Crown.
- (3) A member of a company who holds shares in trust for the Crown must not acquire shares in the company for his or her own benefit.
- (4) Any shares acquired in a company in contravention of subsection (3) are taken to be held in trust for the Crown but the Crown is not liable to meet the cost of that acquisition.

**10. Transfer of business, property, rights and liabilities, &c.**

- (1) In this section –

*operation* means any operation or activity of the Hydro-Electric Corporation relating to or associated with one or more of the following or any part of such an operation or activity:

- (a) the transmission of electricity;

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(b) the distribution of electricity;

(c) the retailing of electricity;

***transfer day*** means the day specified in a transfer notice as the day on which the transfer notice takes effect;

***transfer recipient*** means the Crown, or company, to which transferred business is transferred by a transfer notice;

***transferred business*** means any, or any part of any, operation, property, right or liability specified in, and transferred by, a transfer notice;

***transferred contract*** means –

(a) a contract where that contract –

(i) relates to transferred business; and

(ii) was made or entered into by the Hydro-Electric Corporation before the transfer day; and

(b) any part of a contract where –

(i) that part relates to transferred business; and

(ii) that contract was made or entered into by the Hydro-Electric Corporation before the transfer day.

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- (2) The Treasurer, by notice published in the *Gazette*, may –
- (a) transfer any, or any part of any, operation, property, right or liability of the Hydro-Electric Corporation to the Crown or a company (whether or not that transfer is for a consideration); and
  - (b) specify the value of any operation, property, right or liability so transferred; and
  - (c) specify conditions relating to that transfer; and
  - (d) specify the contracts made or entered into by the Hydro-Electric Corporation before the transfer day, or parts of such contracts, that –
    - (i) have not been discharged or performed by that day; and
    - (ii) are or are not related to any operation, property, right or liability so transferred; and
  - (e) specify the manner in which a contract, or part of a contract, referred to in paragraph (d) applies with respect to the transfer recipient; and
  - (f) provide for any matter that is incidental to that transfer.

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- (3) The Treasurer must not make a transfer notice unless he or she has first –
  - (a) provided the Hydro-Electric Corporation with a draft of that notice; and
  - (b) allowed the Hydro-Electric Corporation reasonable opportunity to provide the Treasurer with written comments in respect of the draft notice.
- (4) Consideration for the transfer under a transfer notice of any transferred business may be by assumption of liabilities, issue of shares or otherwise.
- (5) On the transfer day, a transfer notice takes effect and –
  - (a) any, or any part of any, operation, property and right specified in and transferred by a transfer notice vests in the transfer recipient; and
  - (b) any, or any part of any, liability specified in and transferred by a transfer notice becomes the liability of the transfer recipient.
- (6) Except as otherwise provided in a transfer notice, on and after the transfer day –
  - (a) any legal proceedings commenced by or against the Hydro-Electric Corporation in respect of transferred business and pending immediately before the transfer

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day are taken to have been commenced by or against the transfer recipient; and

- (b) any legal proceedings that immediately before the transfer day could have been commenced by or against the Hydro-Electric Corporation in respect of the transferred business may be commenced by or against the transfer recipient; and
- (c) a judgment or order of a court obtained before the transfer day by or against the Hydro-Electric Corporation in respect of the transferred business may be enforced by or against the transfer recipient; and
- (d) a document addressed to the Hydro-Electric Corporation in respect of the transferred business may be served on the transfer recipient; and
- (e) a reference to the Hydro-Electric Corporation in a document relating to the transferred business is taken –
  - (i) to be a reference to the transfer recipient; or
  - (ii) to include a reference to the transfer recipient –

as the case requires; and

- (f) a contract made or entered into before the transfer day by the Hydro-Electric Corporation, or a part of such a contract, which relates to transferred business but

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is not performed or discharged before that day is taken to be a contract made or entered into by the transfer recipient as it may apply with respect to the transfer recipient under the transfer notice; and

- (g) a liability that is transferred business and that, immediately before the transfer day, was guaranteed by the Crown –
  - (i) continues to be guaranteed by the Crown on the same terms and conditions; and
  - (ii) is taken to be a guarantee given under section 12.

- (7) A person who is a party to a contract is not entitled to –
  - (a) terminate that contract; or
  - (b) claim that there has been a breach or default of the contract; or
  - (c) claim any remedy –

by reason only of the transfer, under this section, of any operation, property, right or liability to which that contract, or a part of that contract, relates or which arises from that contract or a part of that contract.

- (8) Although by the operation of this section the rights and obligations of the Hydro-Electric Corporation under a transferred contract are transferred to a transfer recipient –

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- (a) on and after the transfer day the rights and obligations of the parties to the transferred contract under or in respect of the transferred contract, and the terms of the transferred contract, are not otherwise affected, altered or diminished; and
  - (b) the remaining terms of the transferred contract are not otherwise affected, altered or diminished; and
  - (c) those parties may enforce those rights.
- (9) Any tax, duty, fee or charge under any law of Tasmania is not payable in respect of –
  - (a) a transfer under a transfer notice, the vesting or change of ownership of transferred business in or to the transfer recipient or an act done in connection with that transfer, vesting or change of ownership; or
  - (b) anything the Treasurer certifies as having been done as a consequence of or in connection with that transfer, vesting or change of ownership.
- (10) The Crown must not sell or otherwise dispose of any transferred business which is transferred to it under a transfer notice.
- (11) If any dispute arises –
  - (a) as to whether any, or any part of any, operation, property, right or liability is transferred business; or

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- (b) as to whether any, or any part of any, contract relates to transferred business –

the Treasurer may determine the matter and must provide the Hydro-Electric Corporation and any transfer recipient or company interested in the matter with written notice of that determination.

- (12) A transfer notice is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

**11. Status of company**

- (1) Unless this or any other Act expressly provides otherwise, a company or a subsidiary of a company –
- (a) is not, and does not represent, the Crown; and
  - (b) is not exempt from any rate, tax, duty or other impost imposed under any law merely because the Crown has beneficial ownership of shares in it; and
  - (c) is not subject or entitled to any prerogative right or privilege of the Crown.
- (2) The Crown is not liable for any liability or obligation of a company or subsidiary of a company unless –
- (a) the Treasurer gives a guarantee or indemnity under section 12 in relation to that liability or obligation; or

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- (b) a guarantee is given under the *Tasmanian Public Finance Corporation Act 1985* in respect of the company or subsidiary.

**11A. Members' statement of expectations**

- (1) The members of a company are to provide the board of directors with a statement of expectations.
- (2) The statement of expectations is to specify –
  - (a) the expectations of the members in relation to the strategic priorities of the company; and
  - (b) the policy expectations of the members for the performance of the company and its subsidiaries.
- (3) The members of a company, at any time, may at their own discretion or on the application of the board of directors –
  - (a) amend the statement of expectations; or
  - (b) revoke the statement of expectations and substitute another statement of expectations.
- (4) Before or while preparing a statement of expectations or an amendment to a statement of expectations, the members of a company are to consult with the board of directors.

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- (5) A statement of expectations and an amendment to a statement of expectations are to be in writing and signed by each member.
- (6) A statement of expectations, or an amendment to a statement of expectations, takes effect on a day specified in it, being a day not earlier than the day on which the statement or amendment is provided to the company.
- (7) The Minister must cause a copy of the statement of expectations, or of an amendment to a statement of expectations, to be laid before each House of Parliament within 10 sitting-days after the statement or amendment has been signed as required by subsection (5).

*Division 2 – Financial and other provisions*

**12. Guarantee or indemnity**

- (1) On the written request of a company or its subsidiary, the Treasurer, in writing, may guarantee or give an indemnity, or guarantee and give an indemnity, in relation to –
  - (a) . . . . .
  - (b) the performance of an obligation undertaken by the company or subsidiary or which the company or subsidiary has agreed to undertake (whether that obligation is monetary or otherwise).
- (2) A guarantee or an indemnity –
  - (a) . . . . .

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- (b) is subject to any conditions the Treasurer determines.
- (3) The Treasurer is to make any payment required under or arising from a guarantee or indemnity out of money provided by Parliament for the purpose.
- (4) This section has effect regardless of where the obligation was undertaken, agreed to be undertaken or required to be performed.

**13. Guarantee fees**

Division 1 of Part 11 of the *Government Business Enterprises Act 1995* applies in relation to a company and a subsidiary of a company as if –

- (a) the company were a Government Business Enterprise specified in Schedule 3 to that Act; and
- (b) the subsidiary were a subsidiary within the meaning of that Act.

**14. Tax equivalents**

The provisions of Part 10 of the *Government Business Enterprises Act 1995* apply in relation to a company and a subsidiary of that company as if –

- (a) the company were a Government Business Enterprise specified in Schedule 2 to that Act; and

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- (b) the subsidiary were a subsidiary within the meaning of that Act.

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**17. Effect of *Financial Agreement Act 1994***

If, under section 5(1) of the *Financial Agreement Act 1994*, the Treasurer requires a company to do or refrain from doing anything for the purpose of implementing the Agreement, within the meaning of that Act, the company must comply with that requirement.

**18. Superannuation for employees**

- (1) An employee of a company is an employee for the purposes of the *Public Sector Superannuation Reform Act 2016*.
- (2) A superannuation contribution made in respect of an employee appointed or employed on or after 15 May 1999 is not to be in excess of the rate specified in section 21(3) of the *Public Sector Superannuation Reform Act 2016*.
- (3) A company must not establish a superannuation scheme after the commencement day specified in the *Public Sector Superannuation Reform Act 1999*.
- (4) A company must comply with any instruction relating to superannuation given to it by the

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Minister responsible for the administration of the  
*Public Sector Superannuation Reform Act 2016.*

## **PART 3 – MISCELLANEOUS**

### **19. Arrangements with Minister**

- (1) The Minister, with the approval of the Treasurer and the board of directors of a company, may enter into an agreement under which the company or its subsidiary agrees to perform, or to cease to perform, activities.
- (2) The terms of the agreement may provide for compensation or other payment to the company or its subsidiary out of money provided by Parliament for the purpose.

### **20. Limitations on members of company**

- (1) A member of a company must not sell or otherwise dispose of the shares held by that member.
- (2) A member of a company must not vote at a meeting of the shareholders of the company to allow the company to –
  - (a) offer shares in the company for subscription; or
  - (b) invite persons to subscribe for shares in the company; or
  - (c) allot or issue shares in the company on a basis other than to existing shareholders pro rata to their existing shareholding.

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- (3) A member of a company must not vote at a meeting of the shareholders of the company to allow the company to sell or otherwise dispose of a transmission system situated in Tasmania or a distribution network situated in Tasmania or any part of such a transmission system or distribution network that would have the result of significantly reducing the capacity of the network.
- (4) An Act that purports to repeal or amend this section is of no effect unless the proposal for the repeal or amendment has been approved by a majority of the electors voting in a referendum held under the *Referendum Procedures Act 1994*.
- (5) Subsection (4) does not apply to an Act that –
  - (a) repeals this section if the Act enacts a provision substantially similar to this section; or
  - (b) amends this section if the amendments enacted do not lessen a majority required by subsection (4) or otherwise substantially alter the effect of this section.

**21. Delegation by Minister and Treasurer**

- (1) The Minister, in writing, may delegate to any person any of his or her powers or functions under this Act, other than this power of delegation.

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- (2) The Treasurer, in writing, may delegate to any person any of his or her powers or functions under this Act, other than this power of delegation.

**21A. Treasurer's Instructions**

- (1) In this section –

*Treasurer's Instruction* means a Treasurer's Instruction issued under section 114 of the *Government Business Enterprises Act 1995*.

- (2) A Treasurer's Instruction applies to a company, and each subsidiary of that company, as if they were Government Business Enterprises specified in Schedules 1, 2 and 3 of the *Government Business Enterprises Act 1995*.
- (3) The Treasurer may issue Treasurer's Instructions specifically in relation to a company, and a subsidiary of a company, as if they were Government Business Enterprises specified in Schedules 1, 2 and 3 of the *Government Business Enterprises Act 1995*.
- (4) A company and a subsidiary of a company are to comply with all relevant Treasurer's Instructions.
- (5) The Treasurer may exempt a company or a subsidiary of a company, or both, from the obligation to comply with all or part of a Treasurer's Instruction.

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**21B. Application of Corporations Act**

To the extent that a provision of this Act is incapable of concurrent operation with the Corporations Act, that provision is declared to be a Corporations legislation displacement provision for the purposes of section 5G of the Corporations Act.

**22. Application of certain provisions of other Acts**

Part I of Schedule 3 to the *Stamp Duties Act 1931* and section 10 of the *Land and Income Taxation Act 1910* apply to a company and any subsidiary of a company as if the company or subsidiary were a Government Business Enterprise.

**23. Evidentiary matters**

- (1) The publication of a notice in the *Gazette* purporting to be a transfer notice is evidence that it is a transfer notice validly made and published in the *Gazette*.
- (2) A determination purporting to be a determination under section 10(10) is evidence of the matters in it.

**24. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.

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- (2) Without limiting the generality of subsection (1), the Governor may make regulations that –
- (a) contain provisions of a savings or transitional nature consequent on the enactment of this Act or the making of a transfer notice; and
  - (b) provide for all matters necessary for or incidental to the making of a transfer notice; and
  - (c) provide for all matters relating to the resolution of disputes arising from the making or interpretation of a transfer notice or any related matter; and
  - (d) specify whether an operation or activity, operations or activities of a class specified in the regulations or a part of an operation or activity is or are related to the transmission, distribution or retailing of electricity; and
  - (e) provide for the payment of fees under the regulations; and
  - (f) provide for the correction of registers under the *Land Titles Act 1980*, for the issue of certificates of title under that Act and for related matters.
- (3) A provision referred to in subsection (2)(a) may take effect on and from the day on which this Act receives the Royal Assent or a later day.
- (4) The regulations may –

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- (a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and
  - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues.
- (5) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Minister or the Treasurer, or both.

**25. Transitional provisions**

Schedule 2 has effect with respect to matters of a transitional or savings nature.

**26. Consequential repeals and amendments**

- (1) The *HEC Enterprises Corporation Act 1995* is repealed.
- (2) The *Government Business Enterprises Act 1995* is amended by omitting “HEC Enterprises Corporation” from Part 1 of Schedule 1 and from Schedules 2, 3 and 4.
- (3) The legislation specified in Schedule 3 is amended as specified in that Schedule.

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**27. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Energy; and
- (b) the Department responsible to the Minister for Energy in relation to the administration of this Act is the Department of Treasury and Finance.

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**SCHEDULE 1 – PROVISIONS TO BE INCLUDED IN  
MEMORANDUM AND ARTICLES**

Section 7

**PART 1 – PROVISION TO BE INCLUDED IN  
MEMORANDUM**

**1. Parliamentary approval for amendment of memorandum or articles**

- (1) A special resolution altering, adding to or omitting a provision of this memorandum or the articles of the company does not have any effect unless and until both Houses of the Parliament of Tasmania have approved the special resolution.
- (2) A special resolution is approved by a House of Parliament –
  - (a) when the House passes a motion approving the special resolution; or
  - (b) at the end of 5 sitting days after the special resolution was laid before the House if no notice of motion to disapprove the special resolution is before the House; or
  - (c) if such a notice is before the House at the end of that period, when the first of the following occurs:
    - (i) the notice is withdrawn;
    - (ii) the motion is negatived;

- (iii) a further period of 5 sitting days ends.

## **PART 2 – PROVISIONS TO BE INCLUDED IN ARTICLES**

### **1. Interpretation**

Words, phrases and expressions used in these articles have the same meanings as in –

- (a) the Corporations Act; and
- (b) except where inconsistent with that Law, the *Electricity Companies Act 1997*.

### **2. Powers and duties of board of directors**

Subject to the Corporations Act and these articles –

- (a) the business of the company must be managed by the board of directors; and
- (b) the board of directors may exercise all powers of the company as are not, by the Corporations Act or by these articles, required to be exercised by the shareholders.

### **3. Shareholder approval for borrowings**

Except where approved by special resolution, the company must not borrow from any person other than the Tasmanian Public Finance Corporation.

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**4. Shareholder approval for matters relating to ownership of subsidiaries**

Except where approved by special resolution, the company must not –

- (a) form or acquire, or participate in the formation or acquisition of, a subsidiary; or
- (b) dispose of shares in a subsidiary; or
- (c) enter into any transaction which may result in a subsidiary ceasing to be a subsidiary; or
- (d) sell or otherwise dispose of a transmission system or distribution network or any part of a transmission system or distribution network that would have the result of significantly reducing the capacity of the transmission system or distribution network.

**5. Shareholder approval for memorandum or articles of subsidiary in relation to borrowings**

Except where approved by special resolution, the company must not –

- (a) approve the memorandum or articles of a subsidiary unless those articles contain a provision that is substantially the same as clause 3 of this Schedule; or
- (b) approve or effect an amendment to that provision.

**6. Shareholder request for information**

On the written request of a shareholder, the company must provide to both the shareholder and the Minister for the time being administering the *Electricity Companies Act 1997* –

- (a) the business or strategic plans of the company and its subsidiaries; and
- (b) the financial information specified in the request; and
- (c) a report on the matters specified in the request and any relevant related information.

**SCHEDULE 2 – TRANSITIONAL PROVISIONS**

Section 25

**1. Interpretation**

In this Schedule, unless the contrary intention appears –

*amend* includes –

- (a) omit matter; and
- (b) insert or add matter; and
- (c) omit matter and substitute other matter;

*Enterprises Corporation* means the HEC Enterprises Corporation;

*former Act* means the *HEC Enterprises Corporation Act 1995*;

*maximum prices* has the same meaning as in the *Government Prices Oversight Act 1995*;

*transferred business* has the same meaning as in section 10;

*transferred employee* means a person who becomes an employee of an electricity company by reason of clause 3.

## **2. Directors of Hydro-Electric Corporation**

- (1) The appointment of a person as a director of the Hydro-Electric Corporation is revoked on that person's appointment as a director of a company.
- (2) A person is not entitled to any compensation or other payment in respect of the revocation of an appointment under subclause (1) despite anything to the contrary in the instrument of the appointment.

## **3. Transfer of staff**

- (1) After consulting with the chief executive officer of the Hydro-Electric Corporation and such persons employed by that Corporation as may be affected by the formation of a company, the Director of Public Sector Management may, by notice served on such a person, transfer the employment of that person to that company on and from the day specified in the notice.
- (2) Without limiting the ways in which consultation with persons may be undertaken for the purposes of subclause (1), consultation may be undertaken by consulting the representatives of persons.
- (3) On the day specified in the notice as the day on which the employment of a person is transferred –
  - (a) that person, if he or she has been served with that notice, becomes an employee of the company specified in the notice; and

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- (b) that company becomes the employer of that person; and
  - (c) the employment of that person with the Hydro-Electric Corporation is terminated.
- (4) A transferred employee –
- (a) is taken to have been employed by the company for the same remuneration as he or she was receiving immediately before the transfer; and
  - (b) except where an award, agreement or any other law otherwise provides, retains all existing and accrued rights as if employment as an employee of the company were a continuation of employment with the Hydro-Electric Corporation; and
  - (c) is entitled to claim those rights against the company; and
  - (d) is not entitled to any compensation in respect of the change of employer.
- (5) Any award or agreement relating to a transferred employee continues to apply to the transferred employee, except where another award or agreement or any other law otherwise provides, and for that purpose a reference in the award or agreement to the Hydro-Electric Corporation is taken to be or to include a reference to the company.

- (6) The period of service of the transferred employee with the Hydro-Electric Corporation is taken to be service as an employee of the company.
- (7) Nothing in this clause prevents any of the terms of employment of a transferred employee being altered by an award, agreement or law after he or she becomes the employee of the company.
- (8) If the *Long Service Leave (State Employees) Act 1994* applied to a transferred employee immediately before the incorporation day, that Act continues to apply to the transferred employee unless –
  - (a) he or she gives written notice to the company that he or she elects that that Act not apply; or
  - (b) an award or agreement provides otherwise.

#### **4. Licensing of company**

The company is taken to hold a licence necessary under the *Electricity Supply Industry Act 1995* for the company to operate any or any part of its transferred business until the first of the following occurs:

- (a) the period of 6 months commencing on the incorporation day ends;
- (b) the company is issued under that Act with a licence relating to the operation of

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that transferred business or part of  
transferred business.

**5. Pricing policies**

- (1) The Minister may make one or more orders specifying the maximum prices that may be charged by the Hydro-Electric Corporation or a company in respect of, or in connection with, the supply of electricity.
- (2) The maximum prices specified in an order under subclause (1) must not exceed the maximum prices specified in the *Government Prices Oversight (Electricity Prices) Order 1996*.
- (3) An order under subclause (1) –
  - (a) may commence on the day the making of the order is notified in the *Gazette* or a later day, as specified in the order; and
  - (b) may amend or revoke the *Government Prices Oversight (Electricity Prices) Order 1996*; and
  - (c) expires on 31 December 1999; and
  - (d) is taken to be an order under section 36(2) of the *Government Prices Oversight Act 1995*.
- (4) Section 36(3)(c), (4) and (4A) of the *Government Prices Oversight Act 1995* does not apply in respect of an order under subclause (1).

**6. Directors of Enterprises Corporation**

- (1) On the repeal of the former Act –
  - (a) the board of directors of the Enterprises Corporation is dissolved; and
  - (b) the appointments of the directors and acting directors of the Enterprises Corporation are revoked.
- (2) A person is not entitled to any compensation or other payment in respect of the revocation of an appointment under subclause (1)(b) despite anything to the contrary in the terms of the appointment.

**7. Property, documents and legal proceedings of or relating to Enterprises Corporation**

- (1) On the repeal of the former Act –
  - (a) any property vested in or belonging to the Enterprises Corporation immediately before that repeal vests in or belongs to the Hydro-Electric Corporation; and
  - (b) any liabilities of the Enterprises Corporation immediately before that repeal become the liabilities of the Hydro-Electric Corporation.
- (2) On and after the repeal of the former Act –
  - (a) any legal proceedings commenced by or against the Enterprises Corporation and pending immediately before that repeal

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- are taken to have been commenced by or against the Hydro-Electric Corporation; and
- (b) any legal proceedings that may have been commenced by or against the Enterprises Corporation immediately before that repeal may be commenced by or against the Hydro-Electric Corporation; and
  - (c) a judgment or order of a court obtained before that repeal by or against the Enterprises Corporation may be enforced by or against the Hydro-Electric Corporation; and
  - (d) a document addressed to the Enterprises Corporation may be served on the Hydro-Electric Corporation; and
  - (e) a reference to the Enterprises Corporation in a document having effect immediately before that repeal is taken –
    - (i) to be a reference to the Hydro-Electric Corporation; or
    - (ii) to include a reference to the Enterprises Corporation –as the case requires; and
  - (f) a contract made or entered into before that repeal by the Enterprises Corporation but not performed or discharged before that repeal is taken to

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have been made or entered into by the Hydro-Electric Corporation.

- (3) A person who is a party to a contract is not entitled to –
- (a) terminate that contract; or
  - (b) claim that there has been a breach or default of the contract; or
  - (c) claim any remedy –

by reason only of the transfer by this clause of property or liabilities to which that contract relates, or arising from that contract, from the Enterprises Corporation to the Hydro-Electric Corporation.

- (4) Any tax, duty, fee or charge under any law of Tasmania is not payable in respect of –
- (a) the transfer by this clause of any property or liability from the Enterprises Corporation to the Hydro-Electric Corporation; or
  - (b) anything the Treasurer certifies as having been done as a consequence of that transfer.
- (5) The Hydro-Electric Corporation must repay to the Crown by 30 June 1999 the allocation of \$250 000 made by the Crown to the Enterprises Corporation.
- (6) If the whole or any part of the sum referred to in subclause (5) remains unpaid after 30 June 1999,

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that amount may be recovered as a debt due to the Crown in a court of competent jurisdiction.

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**SCHEDULE 3 – CONSEQUENTIAL AMENDMENTS**

Section 26

***Fire Service Act 1979***

**1.** Section 60 is amended as follows:

- (a) by inserting “(1)” before “Notwithstanding”;
- (b) by omitting “Hydro-Electric Corporation” and substituting “appropriate electricity entity”;
- (c) by omitting “Corporation”, last 4 times occurring, and substituting “electricity entity”;
- (d) by inserting the following subsection:

(2) In this section,

*electricity entity* means an electricity entity within the meaning of the *Electricity Supply Industry Act 1995* which is also a prescribed electricity entity within the meaning of the *Electricity Entities (Contributions) Act 1997*.

***Government Business Enterprises Act 1995***

**1.** Section 9(1)(h) is amended as follows:

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- (a) by inserting “either” after “powers”;
- (b) by inserting “or by that other person” after “other person”.

***Long Service Leave (State Employees) Act 1994***

- 1. Schedule 1 is amended by omitting the item relating to employees formerly employed under the *Hydro-Electric Corporation Act 1944*.

***Trustee Act 1898***

- 1. Section 5(1)(a) is amended by omitting “Commonwealth, or the Hydro-Electric Corporation” and substituting “Commonwealth”.

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**NOTES**

The foregoing text of the *Electricity Companies Act 1997* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 July 2023 are not specifically referred to in the following table of amendments.

| Act  | Number and year | Date of commencement   |
|--|-----------------|--|
| <i>Electricity Companies Act 1997</i>  | No. 69 of 1997  | 22.12.1997<br>(ss. 1, 2, 24, 25, 26(3) and 27 and Scheds. 2 and 3)<br>21.4.1998<br>(ss. 3, 4, Part 2, ss. 19, 20, 21, 22 and 23 and Sched. 1)<br>1.7.1998<br>(ss. 26(1) and (2)) |
| <i>Public Sector Superannuation Reform Act 1999</i>  | No. 19 of 1999  | 15.5.1999  |
| <i>National Taxation Reform (Commonwealth-State Relations) Act 1999</i>                                | No. 84 of 1999  | 1.7.2000   |
| <i>Electricity Companies Amendment Act 2001</i>  | No. 18 of 2001  | 26.4.2001  |
| <i>Corporations (Consequential Amendments) Act 2001</i>  | No. 42 of 2001  | 15.7.2001  |
| <i>Hydro-Electric Corporation and Electricity Companies Acts (Public Ownership) Amendment Act 2001</i> | No. 115 of 2001 | 17.12.2001   |
| <i>Electricity Supply Industry (Miscellaneous Amendments) Act 2005</i>                                 | No. 78 of 2005  | 1.1.2008   |
| <i>Government Business Enterprises and State-owned Companies Legislation Amendment Act 2009</i>        | No. 1 of 2009   | 27.4.2009  |
| <i>Audit (Consequential Amendments) Act 2008</i>   | No. 50 of 2008  | 1.7.2010   |
| <i>Public Sector Superannuation Reform (Consequential and Transitional Provisions) Act 2016</i>        | No. 54 of 2016  | 31.3.2017  |

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| Act  | Number and year | Date of commencement |
|--|-----------------|----------------------|
| <i>Metro Tasmania Amendment Act 2018</i>                       | No. 9 of 2018   | 10.9.2018            |
| <i>Tasmanian Public Finance Corporation Amendment Act 2023</i> | No. 22 of 2023  | 1.7.2023             |

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**TABLE OF AMENDMENTS**

| Provision affected      | How affected  |
|-------------------------|---|
| Section 3               | Amended by No. 18 of 2001, s. 4, No. 42 of 2001, Sched. 1 and No. 78 of 2005, s. 31 |
| Section 4               | Repealed by No. 42 of 2001, Sched. 1  |
| Section 5               | Amended by No. 42 of 2001, Sched. 1   |
| Section 11              | Amended by No. 22 of 2023, s. 8   |
| Section 11A             | Inserted by No. 9 of 2018, s. 15  |
| Section 12              | Amended by No. 22 of 2023, s. 9   |
| Section 13              | Substituted by No. 1 of 2009, Sched. 1  |
| Section 15              | Repealed by No. 50 of 2008, Sched. 2  |
| Section 16              | Amended by No. 84 of 1999, s. 12<br>Repealed by No. 9 of 2018, s. 16                |
| Section 18              | Substituted by No. 19 of 1999, Sched. 1<br>Amended by No. 54 of 2016, s. 23         |
| Section 20              | Amended by No. 18 of 2001, s. 5, No. 115 of 2001, s. 8 and No. 78 of 2005, s. 32    |
| Section 21A             | Inserted by No. 9 of 2018, s. 17  |
| Section 21B             | Inserted by No. 9 of 2018, s. 17  |
| Part 2 of<br>Schedule 1 | Amended by No. 42 of 2001, Sched. 1 and No. 78 of 2005, s. 33                       |

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