

Version No. 035
Electricity Industry Act 1993

Act No. 130/1993

Version incorporating amendments as at 1 July 1998

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Electricity Industry Act 1993

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Version incorporating amendments as at 1 July 1998

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purpose

The purpose of this Act is to restructure the electricity supply industry.

2. Commencement

- (1) Parts 1, 6 and 8, Division 1 of Part 5, and sections 7, 8, 9, 10, 13, 14, 15, 16, 20, 21, 22, 23, 30, 76, 86, 110, 111, 119 and 121 come into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to sub-section (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in sub-section (2) does not come into operation within the period of 12 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

3. Definitions

- (1) In this Act—

"Administrator" means the Administrator for the restructuring of the electricity industry appointed under Part 4;

S. 3
amended by
No. 53/1994
s. 4(1)(a).

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Victorian Legislation and Parliamentary Documents

S. 3(1) def. of "allocation day" inserted by No. 14/1997 s. 4(1).

"allocation day" means the day specified in a statement under section 62A(1);

S. 3(1) def. of "chief electrical inspector" repealed by No. 8/1996 s. 4(2).

"appointed day" means the day on which Division 2 of Part 5 comes into operation;

* * * * *

S. 3(1) def. of "chief executive officer" amended by No. 53/1994 s. 4(1)(b).

"chief executive officer", in relation to an electricity corporation or VPX, means the principal executive officer (by whatever name called) of the corporation or VPX;

S. 3(1) def. of "company" inserted by No. 53/1994 s. 4(2).

"company" has the same meaning as in the Corporations Law of Victoria;

S. 3(1) def. of "corporation" inserted by No. 56/1995 s. 4(3).

"corporation" has the same meaning as in the Corporations Law;

S. 3(1) def. of "distribution company" inserted by No. 53/1994 s. 4(2), amended by No. 110/1994 s. 4(2)(a), substituted by No. 56/1995 s. 4(1)(a).

"distribution company" means—

- (a) a company to which a licence to distribute electricity was issued under Part 12 on 3 October 1994, if the company continues to hold such a licence;
- (b) a person who is the holder of a licence to distribute electricity issued under Part 12, being a person declared by

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Order of the Governor in Council
published in the Government Gazette to
be a distribution company for the
purposes of this Act;

"electricity corporation" means Generation
Victoria;

S. 3(1) def. of
"electricity
corporation"
amended by
Nos 53/1994
s. 4(1)(c),
10/1998
s. 5(1)(b).

* * * * *

S. 3(1) def. of
"Electricity
Services
Victoria"
repealed by
No. 53/1994
s. 4(1)(d).

"excluded property", in relation to SEC,
means—

- (a) the rights and liabilities of SEC
under—
 - (i) an agreement, contract or
document referred to in Schedule
3;
 - (ii) the Agreements within the
meaning of the **Snowy
Mountains Hydro-electric
Agreements Act 1958**;
 - (iii) an employment agreement; and
- (b) the property of SEC referred to in
Schedule 3;

"financial accommodation" means a financial
benefit or assistance to obtain a financial
benefit arising from or as a result of—

- (a) a loan;

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- (b) issuing, endorsing or otherwise dealing in promissory notes;
- (c) drawing, accepting, endorsing or otherwise dealing in bills of exchange;
- (d) issuing, purchasing or otherwise dealing in securities;
- (e) granting or taking a lease of any real or personal property for financing but not for operating purposes;
- (f) in relation to SEC, any other arrangement that the Governor in Council on the recommendation of the Treasurer has approved as financial accommodation in relation to SEC under the **Borrowing and Investment Powers Act 1987**;

"financial arrangement" means an arrangement entered into for the purpose of managing, lessening, hedging or protecting against movements in currency exchange, interest or discount rates or other costs of obtaining financial accommodation;

"financial obligation", in relation to SEC, means the liability of SEC in respect of—

- (a) financial accommodation obtained by SEC; or
- (b) a financial arrangement entered into by SEC—

and includes the liability of SEC in respect of inscribed stock issued by SEC;

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"generation company" means—

- (a) a company to which a licence to generate electricity for supply or sale was issued under Part 12 on 31 January 1995, if the company continues to hold such a licence;
- (b) a person who is the holder of a licence to generate electricity for supply or sale issued under Part 12, being a person declared by Order of the Governor in Council published in the Government Gazette to be a generation company for the purposes of this Act;

S. 3(1) def. of "generation company" inserted by No. 110/1994 s. 4(1), substituted by No. 56/1995 s. 4(1)(b).

"Generation Victoria" means the body established under Division 1 of Part 2;

"instrument" includes a document and an oral agreement;

"LaTrobe area" means the municipal district of the Shire of LaTrobe;

S. 3(1) def. of "LaTrobe area" substituted by No. 56/1995 s. 4(2)(a).

"liabilities" means all liabilities, duties and obligations, whether actual, contingent or prospective but, in relation to SEC, does not include financial obligations;

"licence" means a licence under section 162;

S. 3(1) def. of "licence" inserted by No. 55/1997 s. 4(1).

"licensee", except in Part 13, means the holder of a licence under section 162;

S. 3(1) def. of "licensee" inserted by No. 55/1997 s. 4(1).

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S. 3(1) def. of
"Loy Yang B
land"

inserted by
No. 14/1997
s. 4(1).

S. 3(1) def. of
"LYB

Transaction
Implement-
ation

Agreement"
inserted by
No. 14/1997
s. 4(1).

S. 3(1) def. of
"National
Electricity"

amended by
No. 53/1994
s. 4(1)(e).

S. 3(1) def. of
"Office"

inserted by
No. 56/1995
s. 4(3),

substituted by
No. 8/1996
s. 4(3),

amended by
No. 48/1996
s. 19,

substituted by
No. 25/1998
s. 165(1).

S. 3(1) def. of
"PoolCo"

inserted by
No. 53/1994
s. 4(2).

"Loy Yang B land" means the land shown hatched on the plan in Schedule 2 to the **Loy Yang B Act 1992**;

"LYB Transaction Implementation

Agreement" means the transaction implementation agreement dated 29 March 1997 entered into between SEC, Edison Mission Energy Australia Limited, Loy Yang B Power Station Pty Ltd, Loy Yang Power Ltd, the Treasurer, Leanne Power Pty Ltd and Edison Mission Energy;

"National Electricity" means Power Net Victoria established under Division 2 of Part 2;

"Office" means the Office of the Regulator-General under the **Office of the Regulator-General Act 1994**;

"PoolCo" means Victorian Power Exchange established under Part 2A;

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* * * * *

"property" means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description;

S. 3(1) def. of "Power Net Victoria" inserted by No. 8/1996 s. 4(1)(a), repealed by No. 10/1998 s. 5(1)(a).

"public distribution company" means a distribution company all the shares in which are held by, or on behalf of, the State or a statutory authority;

S. 3(1) def. of "public distribution company" inserted by No. 56/1995 s. 4(3), amended by No. 8/1996 s. 4(1)(b).

"public generation company" means a generation company all the shares in which are held by, or on behalf of, the State or a statutory authority;

S. 3(1) def. of "public generation company" inserted by No. 56/1995 s. 4(3), amended by No. 8/1996 s. 4(1)(c).

"public transmission company" means a transmission company which is—

S. 3(1) def. of "public transmission company" inserted by No. 35/1997 s. 18(a).

- (a) a statutory authority; or
- (b) a company all the shares in which are held by, or on behalf of, the State or a statutory authority;

"rights" means all rights, powers, privileges and immunities, whether actual, contingent or prospective;

"SEC" means the State Electricity Commission of Victoria;

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S. 3(1) def. of
"SEC
company"
amended by
No. 110/1994
s. 4(2)(b).

"SEC company" means SECV Superannuation Pty Ltd, Energy Information Technology Company Pty Ltd, Utilities Insurance Company Pty Ltd or SECV International Pty Ltd;

"SEC instrument" means an instrument (including a legislative instrument other than this Act) subsisting immediately before the appointed day—

- (a) to which SEC was a party; or
- (b) that was given to or in favour of SEC; or
- (c) that refers to SEC; or
- (d) under which—
 - (i) money is, or may become, payable to or by SEC; or
 - (ii) other property is to be, or may become liable to be, transferred to or by SEC;

"security" includes inscribed stock and debenture, bond, debenture stock, notes or any other document creating, evidencing or acknowledging indebtedness in respect of financial accommodation, whether or not constituting a charge on property;

"TCV" means the Treasury Corporation of Victoria;

S. 3(1) def. of
"transferred
property"
amended by
No. 14/1997
s. 4(2)(a).

"transferred property" means property, rights or liabilities of SEC that, under Part 5, have vested in, or become liabilities of, an electricity corporation, SEC company, a person or persons nominated by the Minister under section 62A or the State;

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"transferee", in relation to transferred property, means the electricity corporation or SEC company or a person or persons nominated by the Minister under section 62A to which the property has been transferred or, if the property has been transferred to the State, the State;

S. 3(1) def. of "transferee" amended by No. 14/1997 s. 4(2)(b).

"transmission company" means—

* * * * *

- (b) a person who is the holder of a licence to transmit electricity issued under Part 12, being a person declared by Order of the Governor in Council published in the Government Gazette to be a transmission company for the purposes of this Act;

S. 3(1) def. of "transmission company" inserted by No. 35/1997 s. 18(b), amended by No. 10/1998 s. 5(1)(c).

"undertaking" in relation to an electricity corporation, VPX, a distribution company, transmission company or a generation company, means—

S. 3(1) def. of "undertaking" amended by Nos 53/1994 s. 4(1)(f), 110/1994 ss 4(2)(c), 33(1)(a), 35/1997 s. 18(d).

- (a) an electrical undertaking approved by the Governor in Council (whether before or after the commencement of this section)—
 - (i) for the erection, construction and provision of works, appliances and conveniences for the generation of electricity (whether by the use of coal, water-power or otherwise, but not by the use of a nuclear power reactor); or
 - (ii) for the reception, storage, distribution, transmission, use, supply and sale of such electricity; and

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- (b) all buildings, works, mines, open-cuts, quarries, water, land, machinery, plant, towers, electric lines, cables and appliances used for or in connection with the electrical undertaking;

"undertaker" means—

- (a) SEC or an electricity corporation or VPX, a distribution company, transmission company or a generation company;
- (b) a municipal council, corporation or person who, by an Order in Council under the **Electric Light and Power Act 1958** or a corresponding previous enactment is authorised to supply electricity within any area;
- (c) with respect to electric tramways, a person or body of persons, corporate or unincorporate, having the control and management of the tramways;

"Victorian Power Exchange" means the body established under Part 2A;

"VPX" means Victorian Power Exchange established under Part 2A;

* * * * *

S. 3(1) def. of "undertaker" amended by Nos 53/1994 s. 4(1)(g), 110/1994 ss 4(2)(d), 33(1)(a), 35/1997 s. 18(c).

S. 3(1) def. of "Victorian Power Exchange" inserted by No. 110/1994 s. 33(1)(b).

S. 3(1) def. of "VPX" inserted by No. 110/1994 s. 33(1)(b).

S. 3(1) def. of "Yallourn works area" repealed by No. 56/1995 s. 4(2)(b).

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(2) In any Act other than this Act and in all subordinate instruments (within the meaning of the **Interpretation of Legislation Act 1984**) made under any such Act and in all other instruments, unless the contrary intention appears—

S. 3(2) inserted by No. 53/1994 s. 4(3).

(a) a reference to PoolCo must be construed as a reference to Victorian Power Exchange; and

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S. 3(2)(b) repealed by No. 10/1998 s. 5(1)(d).

* * * * *

S. 3(3) inserted by No. 8/1996 s. 4(4), repealed by No. 25/1998 s. 165(2).

4. *Subsidiary*

S. 4 amended by Nos 53/1994 s. 4(4)(a)(b), 110/1994 s. 33(2), 79/1995 s. 4(1)(a)(b).

(1) For the purposes of this Act, the question whether a body corporate is a subsidiary of an electricity corporation, VPX, SEC or any other body shall be determined in the same manner as the question would be determined under the Corporations Law of Victoria if the corporation, VPX, SEC or any other body and the body corporate were corporations within the meaning of that Law.

S. 4(1) amended by No. 8/1996 s. 4(5).

(2) If a decision of or approval by SEC is required for the purposes of the Corporations Law to be a decision or approval passed by special resolution, the decision of or approval by SEC is deemed to

S. 4(2) inserted by No. 79/1995 s. 4(2).

be such a decision or approval if the Administrator so certifies in writing.

4A. *Application of Act to certain distribution, transmission and generation companies*

- (1) The Governor in Council, by Order published in the Government Gazette, may declare that a reference in specified provisions of this Act, except Part 12, or in another Act to a distribution company, transmission company or generation company does not include a reference to a person in respect of whom an Order under paragraph (b) of the definition of distribution company or paragraph (b) of the definition of transmission company or paragraph (b) of the definition of generation company, as the case requires, is in force.
- (2) A copy of an Order under sub-section (1) must be laid before each House of the Parliament on or before the sixth sitting day after it is made.
- (3) An Order under sub-section (1) is subject to disallowance by a House of the Parliament, and section 23 of the **Subordinate Legislation Act 1994** applies as if the Order were a statutory rule.

5. *Crown to be bound*

This Act binds the Crown, not only in right of Victoria but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

6. *Extra-territorial operation*

It is the intention of the Parliament that the operation of this Act should, so far as possible, include operation in relation to the following—

- (a) land situated outside Victoria, whether in or outside Australia;

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- (b) things situated outside Victoria, whether in or outside Australia;
 - (c) acts, transactions and matters done, entered into or occurring outside Victoria, whether in or outside Australia;
 - (d) things, acts, transactions and matters, (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of the Commonwealth, another State, a Territory or a foreign country.
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PART 2—THE ELECTRICITY CORPORATIONS

Division 1—Generation Victoria

7. *Establishment*

- (1) There is established a body by the name "Generation Victoria".
- (2) Generation Victoria—
 - (a) is a body corporate with perpetual succession;
 - (b) has an official seal;
 - (c) may sue and be sued;
 - (d) may acquire, hold and dispose of real and personal property;
 - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) All courts must take judicial notice of the seal of Generation Victoria affixed to a document and, until the contrary is proved, must presume that it was duly affixed.
- (4) The official seal of Generation Victoria must be kept in such custody as Generation Victoria directs and must not be used except as authorised by Generation Victoria.

8. *The Crown*

Generation Victoria is a public authority but does not represent the Crown.

9. *Functions and powers*

- (1) The functions of Generation Victoria are, subject to and in accordance with its licence and the licence conditions under Part 12—

-
- (a) to undertake the generation and supply of electricity;
 - (b) to explore for, mine, produce and supply coal, gas and other raw products used in the generation of electricity;
 - (c) to acquire and trade in electricity, coal, gas and other raw products used in the generation of electricity;
 - (d) to undertake the construction and operation of power stations;
 - (e) to carry out research and development relating to the performance of the functions referred to in paragraphs (a) to (d);
 - (f) to provide services, including management services, in the coal, gas and electricity generation industries.
- (2) Generation Victoria—
- (a) may engage in any business, undertaking or activity incidental to the performance of its functions;
 - (b) may do all things necessary or convenient to be done for, or in connection with, the performance of its functions.
- (3) Without limiting the generality of other powers conferred on Generation Victoria—
- (a) Generation Victoria may—
 - (i) be a member of a body corporate, association, partnership, trust or other body; or
 - (ii) form, or participate in the formation of, a body corporate, association, partnership, trust or other body; or
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- (iii) enter into a joint venture with another person or other persons;
- (b) Generation Victoria may—
 - (i) accept gifts, grants, bequests and devises;
 - (ii) act as trustee.
- (4) Generation Victoria may carry on its functions and exercise its powers within or outside Victoria and outside Australia.

10. Schedule 1

Schedule 1 applies to Generation Victoria.

11. Application of Mineral Resources Development Act 1990 within Latrobe area

- (1) Generation Victoria is not subject to the **Mineral Resources Development Act 1990** in exercising any rights, powers or authorities or discharging any duties within the Latrobe area.
- (2) The property in coal separated from land in the Latrobe area in accordance with the powers of Generation Victoria under this Act passes from the Crown to Generation Victoria when the coal is so separated.

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S. 11(3)
repealed by
No. 14/1997
s. 5(1)(a).

12. Brown coal levy

- (1) There shall be transferred to the Consolidated Fund in each financial year by Generation Victoria an amount equal to the prescribed amount in respect of each gigajoule unit of coal produced from its brown coal workings in the State or from any coal mine in the State and used or sold by

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Generation Victoria in the last preceding financial year.

- (2) For the purposes of sub-section (1), a gigajoule unit of coal is a quantity of coal which, when mined, has a net wet specific energy content of 1 gigajoule.
- (3) The net wet specific energy content of coal produced by Generation Victoria from its brown coal workings or from any State coal mine and used or sold by Generation Victoria in a financial year shall be calculated in such manner and in accordance with such method of sampling as is agreed to by the Minister and Generation Victoria or as is, in default of agreement, determined by the Governor in Council.
- (4) For the purposes of sub-section (1), the prescribed amount shall be the amount derived by multiplying—
 $\$0.041934$ by $\frac{A}{B}$ where—
 - A is the consumer price index number in respect of the relevant quarter; and
 - B is the consumer price index number in respect of the quarter ending on 30 June 1993.
- (5) The transfer of the amount to the Consolidated Fund under sub-section (1) shall be made at such times and in such manner as is agreed by the Treasurer and Generation Victoria or as is, in default of such agreement, determined by the Governor in Council.
- (6) Notwithstanding anything in this or any other Act, the financial statements prepared by Generation Victoria in respect of a financial year shall record

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in such manner as the Treasurer may direct the payment of an amount required to be transferred to the Consolidated Fund by Generation Victoria in that financial year under this section.

(7) In this section—

"consumer price index number" means the all groups consumer price index number for Melbourne published by the Commonwealth Statistician in respect of the quarter ending on 30 June in each year;

"relevant quarter" means the quarter ending on 30 June immediately preceding the financial year in relation to which the prescribed amount is being calculated.

S. 12A
inserted by
No. 110/1994
s. 6,
amended by
Nos 56/1995
s. 6, 14/1997
s. 5(1)(b)(c)(2),
repealed by
No. 10/1998
s. 4.

* * * * *

S. 12B
inserted by
No. 110/1994
s. 6, amended
by No.
56/1995 s. 7,
repealed by
No. 10/1998
s. 4.

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Division 2—Directions as to electricity supply system

* * * * *

Pt 2 Div. 2
(Heading)
amended by
No. 53/1994
s. 6(1),
substituted by
No. 10/1998
s. 5(1)(e).

* * * * *

S. 13
amended by
No. 53/1994
s. 6(2),
48/1996
s. 4(1),
repealed by
No. 10/1998
s. 5(1)(f).¹

* * * * *

amended by
Nos 53/1994
s. 6(3),
48/1996
s. 4(1),
repealed by
No. 10/1998
s. 5(1)(f).
amended by
Nos 53/1994
ss 6(5)(6),
23(1)(a),
110/1994
s. 33(2),
48/1996 s. 4,
repealed by
No. 10/1998
s. 5(1)(f).

* * * * *

S. 16
amended by
No. 48/1996
s. 4(1),
repealed by
No. 10/1998
s. 5(1)(f).

17. Directions affecting electricity supply system

(1) VPX may give directions for or with respect to standards and procedures to be observed by undertakers and other persons—

S. 17(1)
amended by
Nos 53/1994
s. 7(1),
110/1994
s. 33(2).

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s. 17

S. 17(1)(a)
amended by
No. 35/1997
s. 4(1)(a).

(a) to ensure the reliability of the supply of electricity; or

S. 17(1)(b)
amended by
No. 35/1997
s. 4(1)(b).

(b) to ensure the security of the electricity supply system; or

S. 17(1)(c)
amended by
No. 35/1997
s. 4(1)(b).

(c) to maintain the voltage or reactive flow of power through the electricity supply system;
or

(d) in the interests of public safety.

(2) Directions under this section may, without limiting the generality of sub-section (1), require an undertaker or any other person to do any one or more of the following—

(a) to switch off, or re-route, a generator;

(b) to call equipment into service;

(c) to take equipment out of service;

(d) to commence operation or maintain, increase or reduce active or reactive power output;

(e) to shut down or vary operation;

(f) to shed or restore customer load;

(g) to do any other act or thing necessary to be done for the safety or security of the electricity supply system.

(3) Directions given under this section do not apply in relation to a party to an instrument specified by the Minister for the purposes of this section in so far as—

(a) SEC could not, before the commencement of this section, have given those directions to a party to that instrument; or

S. 17(3)
amended by
No. 53/1994
s. 7(2).

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s. 17

(b) if SEC had so given those directions, SEC would have been in breach of the instrument.

(3A) The Minister may, in writing, revoke the exemption from directions applying to an instrument specified under sub-section (3). S. 17(3A) inserted by No. 35/1997 s. 4(2).

(4) An undertaker or other person to whom a direction is given under this section must comply with the direction.

Penalty applying to this sub-section: 100 penalty units.

(5) VPX may serve a notice of contravention of sub-section (4) on an undertaker or other person to whom a direction is given under this section. S. 17(5) inserted by No. 53/1994 s. 7(3), amended by No. 110/1994 s. 33(2).

(6) An undertaker or other person who is guilty of an offence under sub-section (4) that is of a continuing nature is liable, in addition to the penalty set out at the foot of that sub-section, to a further penalty of not more than 10 penalty units for each day during which the offence continues after service of a notice of contravention on the undertaker or other person under sub-section (5). S. 17(6) inserted by No. 53/1994 s. 7(3).

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S. 17(7) inserted by No. 53/1994 s. 7(3), repealed by No. 8/1996 s. 5.

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S. 18 repealed by No. 53/1994 s. 7(4).

19. Regulations may provide for compensation for certain loss

- (1) The regulations may provide for the payment of compensation to a person who suffers detriment as a result of complying with a direction under section 17, or as a result of another person complying, or failing to comply, with such a direction.
- (2) Regulations for the purposes of sub-section (1) may provide—
 - (a) the circumstances in which compensation may be payable;
 - (b) the method of calculating compensation;
 - (c) the person or persons liable to pay the compensation.

* * * * *

Pt 2 Div. 3
(Heading and
ss 20–25)
amended by
No. 53/1994
s. 7(5),
repealed by
No. 53/1994
s. 8(1).²

Division 4—General provisions applying to electricity corporations

26. Directions

- (1) The Treasurer and the Minister, acting jointly, may, from time to time, by written notice to the board of an electricity corporation, give such directions to the board as the Treasurer or Minister think fit.
- (2) The board of an electricity corporation must comply with a direction given under this section but an act

S. 26
substituted by
No. 110/1994
s. 7.

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s. 27

or decision of the board is not invalid merely because of a failure to comply with such a direction.

- (3) Each electricity corporation must include in its annual report under Part 7 of the **Financial Management Act 1994** a copy of each direction given to it under this section together with a statement of its response to the direction.
- (4) In this section, "**electricity corporation**" includes VPX, a public distribution company, a public transmission company and a public generation company.

S. 26(4)
substituted by
No. 56/1995
s. 8(1),
amended by
No. 35/1997
s. 19(b).

27. *Electricity corporation not liable for failure to supply electricity*

- (1) Despite anything in this or any other Act, it is not compulsory for an electricity corporation to supply electricity.
- (2) An electricity corporation, VPX, a distribution company or a transmission company or a generation company, is not liable to any penalty or damages for not supplying electricity under any contract if the failure arises through accident, drought or unavoidable cause.
- (3) An electricity corporation, VPX, a distribution company or a transmission company or a generation company is not liable in damages to any person for any partial or total failure to supply electricity arising through any cause that is not due to the fault of the corporation or the company.

S. 27(2)
amended by
Nos 53/1994
s. 10(1)(a),
110/1994
ss 8(a), 33(2),
35/1997
s. 19(c).

S. 27(3)
amended by
Nos 53/1994
s. 10(1)(a)(b),
110/1994
ss 8(a), 33(2),
35/1997
s. 19(c).

S. 27(4)
inserted by
No. 53/1994
s. 10(2),
amended by
Nos 110/1994
ss 8(a), 33(2),
35/1997
s. 19(c).

- (4) An electricity corporation, VPX, a distribution company or a transmission company or a generation company may enter into an agreement with a person varying or excluding the operation of sub-section (2) or (3) and, to the extent of that agreement, those sub-sections do not apply.

Division 5—Financial

28. *Borrowing and investment by electricity corporation*

- (1) An electricity corporation or VPX may obtain financial accommodation subject to and in accordance with the **Borrowing and Investment Powers Act 1987**.
- (2) An electricity corporation or VPX may invest money of the corporation or VPX in accordance with the powers conferred on it by the **Borrowing and Investment Powers Act 1987**.

29. *Payments in respect of financial obligations*

- (1) If—
- (a) an Order has been made under section 36D(1) or 36E(1) of the **Treasury Corporation of Victoria Act 1992** relating to financial obligations of SEC; and
- (b) responsibility for those financial obligations has been allocated under an allocation statement under Division 3 of Part 5 to an electricity corporation—

then—

- (c) the electricity corporation must pay to TCV such amounts, and at such times, as SEC would have been liable to pay in respect of those financial obligations if the Order had not been made, except in so far as TCV and

S. 28(1)
amended by
Nos 53/1994
s. 11(1)(a),
110/1994
s. 33(2).

S. 28(2)
amended by
Nos 53/1994
s. 11(1)(a)(b),
110/1994
s. 33(2).

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s. 30

- the electricity corporation otherwise agree;
and
- (d) TCV must pay to the electricity corporation such amounts, and at such times, as SEC would have been entitled to receive in respect of the financial accommodation or financial arrangements to which the financial obligations relate if the Order had not been made, except in so far as TCV and the electricity corporation otherwise agree.
- (2) An amount payable under sub-section (1) may be recovered in a court of competent jurisdiction as a debt due to TCV or the electricity corporation, as the case requires.
- (3) In this section, "**electricity corporation**" includes VPX, a public distribution company, a public transmission company and a public generation company.

S. 29(3)
inserted by
No. 53/1994
s. 11(2),
amended by
No. 110/1994
ss 8(b), 33(2),
substituted by
No. 56/1995
s. 8(2),
amended by
No. 35/1997
s. 19(d).

Division 6—General**30. Duties of directors**

- (1) A director of an electricity corporation or VPX must at all times act honestly in the performance of the functions of his or her office.
- (2) A director of an electricity corporation or VPX must at all times exercise a reasonable degree of care and diligence in the performance of his or her functions.

S. 30(1)
amended by
Nos 53/1994
s. 11(3)(a),
110/1994
s. 33(2).

S. 30(2)
amended by
Nos 53/1994
s. 11(3)(b),
110/1994
s. 33(2).

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S. 30(3)
amended by
Nos 53/1994
s. 11(3)(a)(c),
110/1994
s. 33(2).

- (3) A director, or former director of an electricity corporation or VPX, must not make improper use of information acquired by virtue of his or her position as a director to gain directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to the electricity corporation or VPX.
- (4) A director of an electricity corporation or VPX must not make improper use of his or her position as a director to gain, directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to the electricity corporation or VPX.
- (5) This section has effect in addition to, and not in derogation of, any Act or law relating to the criminal or civil liability of a member of the governing body of a corporation and does not prevent the institution of any criminal or civil proceedings in respect of such a liability.

S. 30(4)
amended by
Nos 53/1994
s. 11(3)(a)(d),
110/1994
s. 33(2).

31. *Minister may bring proceedings*

If a person contravenes section 30 in relation to an electricity corporation or VPX, the Minister, in the name of the corporation or VPX, may recover from the person as a debt due to the corporation or VPX by action in a court of competent jurisdiction either or both of the following—

- (a) if that person, or any other person, made a profit as a result of the contravention, an amount equal to that profit;
- (b) if the corporation or VPX has suffered loss or damage as a result of the contravention, an amount equal to that loss or damage.

S. 31
amended by
Nos 53/1994
s. 11(4)(a),
110/1994
s. 33(2).

32. *Electricity corporation not to make loans to directors*

S. 31(b)
amended by
Nos 53/1994
s. 11(4)(a),
110/1994
s. 33(2).

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s. 33

(1) The powers of an electricity corporation or VPX do not include a power, whether directly or indirectly—

S. 32(1)
amended by
Nos 53/1994
s. 11(4)(b),
110/1994
s. 33(2).

(a) to make a loan to a director of the corporation or VPX, a spouse of such a director, or a relative (as defined in the Corporations Law) of such a director or spouse; or

S. 32(1)(a)
amended by
Nos 53/1994
s. 11(4)(b),
110/1994
s. 33(2).

(b) to give a guarantee or provide security in connection with a loan made or to be made by another person to a director, spouse or relative referred to in paragraph (a).

(2) Nothing in sub-section (1) prohibits an electricity corporation or VPX entering into an agreement or arrangement with a person referred to in sub-section (1) if similar agreements or arrangements are entered into by the corporation or VPX with members of the public on the same terms and conditions.

S. 32(2)
amended by
Nos 53/1994
s. 11(4)(b),
110/1994
s. 33(2).

33. *Indemnity*

The powers of an electricity corporation or VPX do not include a power to exempt, whether directly or indirectly, a director of the corporation or VPX from, or to indemnify (whether by paying a premium in respect of a contract of insurance or otherwise) a director of the corporation or VPX against, any liability that by law would otherwise attach to the director in respect of a wilful breach of duty or breach of trust of which the director may be guilty in relation to the corporation or VPX.

S. 33
amended by
Nos 53/1994
s. 11(4)(c),
110/1994
s. 33(2),
56/1995
s. 8(3)(a)(b).

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s. 35

S. 34
amended by
Nos 53/1994
s. 11(4)(d)(i)–
(iii), 110/1994
s. 33(2),
repealed by
No. 8/1996
s. 7.

S. 35(2)
amended by
No. 53/1994
s. 11(5).

S. 35(3)(b)
substituted by
No. 56/1995
s. 8(4).

S. 35(3)(c)
substituted by
No. 56/1995
s. 8(4).

S. 35(3A)
inserted by
No. 110/1994
s. 9.

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35. Corporate plan

- (1) The board of an electricity corporation must prepare a corporate plan each year.
- (2) The board must give a copy of the proposed plan to the Minister and the Treasurer on or before 31 May in each year or such later date as is determined by the Treasurer.
- (3) The proposed corporate plan must be in or to the effect of a form approved by the Minister and the Treasurer and must include—
 - (a) a statement of corporate intent in accordance with section 36;
 - (b) a business plan containing such information as the Treasurer or the Minister requires;
 - (c) financial statements containing such information as the Treasurer requires.
- (3A) In addition to the matters referred to in sub-section (3), the proposed corporate plan of a distribution company must include a statement of the company's bushfire mitigation programs.
- (4) The board must consider any comments on the proposed plan that are made to it by the Treasurer

or the Minister within 2 months after the plan was submitted to the Treasurer and Minister.

- (5) The board must consult in good faith with the Treasurer and the Minister following communication to it of the comments, must make such changes to the plan as are agreed between the Treasurer, the Minister and the board and must deliver the completed plan to the Treasurer and Minister within 2 months after the commencement of the financial year.
- (6) The plan, or any part of the plan, must not be published or made available except for the purposes of this Part without the prior approval of the board, the Treasurer and the Minister.
- (7) The plan may be modified at any time by the board with the agreement of the Treasurer and the Minister.
- (8) If the board, by written notice to the Treasurer and Minister, proposes a modification of the plan, the board may, within 14 days, make the modification unless the Treasurer or Minister, by written notice to the board, directs the board not to make it.
- (9) The Treasurer or Minister may, from time to time, by written notice to the board, direct the board to include in, or omit from, a statement of corporate intent, a business plan or a financial statement of a specified kind, any specified matters.
- (10) Before giving the direction under this section, the Treasurer and Minister must consult with the board as to the matters to be referred to in the notice.
- (11) The board must comply with a direction under this section.
- (12) At any particular time, the statement of corporate intent, the business plan or the financial

statements for an electricity corporation are the statements and plan last completed, with any modifications or deletions made in accordance with this Part.

- (13) In this section, "**electricity corporation**" includes VPX, a public distribution company, a public transmission company and a public generation company.

S. 35(13)
inserted by
No. 53/1994
s. 11(6),
amended by
No. 110/1994
ss 10(a), 33(2),
substituted by
No. 56/1995
s. 8(5),
amended by
No. 35/1997
s. 19(e).

S. 36
amended by
No. 53/1994
s. 11(7).

36. *Statement of corporate intent: contents*

- (1) Each statement of corporate intent must specify for an electricity corporation and its subsidiaries, in respect of the financial year to which it relates and each of the 2 following financial years, the following information—
- (a) the objectives of the corporation and of its subsidiaries;
 - (b) the main undertakings of the corporation and of its subsidiaries;
 - (c) the nature and scope of the activities to be undertaken by the corporation;
 - (d) the accounting policies to be applied in the accounts;
 - (e) the performance targets and other measures by which the performance of the corporation and of its subsidiaries may be judged in relation to their stated objectives;
 - (f) the kind of information to be provided to the Treasurer and the Minister by the corporation

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s. 36A

during the course of those financial years, including the information to be included in each half-yearly report;

(g) such other matters as may be agreed on by the Treasurer, the Minister and the board from time to time.

(2) In this section, "**electricity corporation**" includes VPX, a public distribution company, a public transmission company and a public generation company.

S. 36(2) inserted by No. 53/1994 s. 11(8), amended by No. 110/1994 ss 10(a), 33(2), substituted by No. 56/1995 s. 8(6), amended by No. 35/1997 s. 19(e).

36A. *Electricity corporations to act in accordance with corporate plan*

S. 36A inserted by No. 8/1996 s. 8.

(1) Each electricity corporation must act only in accordance with its corporate plan, as existing from time to time, unless it has first obtained the written approval of the Treasurer and the Minister to do otherwise.

(2) Nothing done by an electricity corporation is void or unenforceable merely because the electricity corporation has failed to comply with section 35, 36 or this section.

(3) In this section, "**electricity corporation**" includes VPX, a public distribution company, a public transmission company and a public generation company.

S. 36A(3) amended by No. 35/1997 s. 19(e).

37. *Non-commercial functions*

(1) The Minister, with the approval of the Treasurer, may in writing direct the board of an electricity corporation—

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- (a) to perform certain functions that the Minister considers to be in the public interest but that may cause the corporation to suffer financial detriment; or
 - (b) to cease to perform functions of a kind referred to in paragraph (a); or
 - (c) to cease to perform certain functions that the Minister or Treasurer considers not to be in the public interest.
- (2) The board must comply with a direction given under sub-section (1).
 - (3) If an electricity corporation satisfies the Minister that it has suffered financial detriment as a result of complying with a direction given by the Minister under sub-section (1), the corporation, if the Minister so directs, may be reimbursed by the State the amount that the Minister determines, with the approval of the Minister administering Part 2 of the **Financial Management Act 1994** and after consultation with the board of the corporation, to be the amount of the financial detriment.
 - (4) The reference in this section to suffering financial detriment includes a reference to incurring net costs that are greater than would have been incurred if the direction were not complied with.
 - (5) Each electricity corporation must include in its annual report under Part 7 of the **Financial Management Act 1994** a copy of each direction given to it by the Minister under this section.

S. 37(3)
amended by
No. 18/1994
s. 66(Sch. 2
item 6).

S. 37(5)
inserted by
No. 53/1994
s. 11(9).

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s. 38

- (6) In this section, "**electricity corporation**" includes VPX, a public distribution company, a public transmission company and a public generation company.

S. 37(6) inserted by No. 53/1994 s. 11(9), amended by No. 110/1994 ss 10(a), 33(2), substituted by No. 56/1995 s. 8(7), amended by No. 35/1997 s. 19(e).

38. Dividends

- (1) Each electricity corporation and VPX must pay to the State such amounts, at such times and in such manner, as are determined by the Treasurer after consultation with the board of the corporation or VPX and the Minister.

S. 38 amended by Nos 53/1994 s. 11(10)(a)-(c), 110/1994 s. 33(2).

- (2) Each public distribution company, public transmission company and public generation company must pay out of profits such amounts, at such times and in such manner, as are determined by the Treasurer after consultation with the board of the company and the Minister.

S. 38(2) inserted by No. 53/1994 s. 11(11), amended by Nos 110/1994 s. 10(b), 56/1995 s. 8(8)(a)(b), amended by No. 35/1997 s. 19(f).

- (3) A public distribution company, public transmission company or public generation company must pay the amount referred to in subsection (2)—

S. 38(3) inserted by No. 56/1995 s. 8(9), amended by No. 35/1997 s. 19(f).

- (a) to the State; or
(b) if the SEC or another statutory authority holds shares in the company, to the SEC or authority—

in accordance with the direction of the Treasurer.

s. 39

Electricity Industry Act 1993
Act No. 130/1993

Ss 39–41
repealed by
No. 31/1994
s. 4(Sch. 2
item 26).

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Victorian Legislation and Parliamentary Documents

PART 2A—VICTORIAN POWER EXCHANGE

41A. *Establishment*

- (1) There is established a body by the name "Victorian Power Exchange".
- (2) VPX—
 - (a) is a body corporate with perpetual succession;
 - (b) has an official seal;
 - (c) may sue and be sued;
 - (d) may acquire, hold and dispose of real and personal property;
 - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) All courts must take judicial notice of the seal of VPX affixed to a document and, until the contrary is proved, must presume that it was duly affixed.
- (4) The official seal of VPX must be kept in such custody as VPX directs and must not be used except as authorised by VPX.

41B. *VPX not to represent Crown*

VPX is a public authority but does not represent the Crown.

Pt 2A
(Heading and
ss 41A–41M)
inserted by
No. 53/1994
s. 12.

S. 41A
inserted by
No. 53/1994
s. 12.

S. 41A(2)
amended by
No. 110/1994
s. 33(2).

S. 41A(3)
amended by
No. 110/1994
s. 33(2).

S. 41A(4)
amended by
No. 110/1994
s. 33(2).

S. 41B
inserted by
No. 53/1994
s. 12,
amended by
No. 110/1994
s. 33(2).

S. 41C
inserted by
No. 53/1994
s. 12.

41C. *Functions and powers*

S. 41C(1)
amended by
Nos 110/1994
s. 33(2),
35/1997 s. 5.

- (1) The functions of VPX are, subject to and in accordance with its licence, the licence conditions under Part 12 and any system security agreement that is in force and in respect of which a declaration under section 41CA is in force—
- (a) to operate and administer the market for wholesale trading in electricity;
 - (b) to control the security of the electricity supply system;
 - (c) to operate the electricity transmission system;
 - (d) to plan, and direct the augmentation of, the electricity transmission system;
 - (e) to provide information and other services to facilitate decisions for investment and the use of resources in the electricity industry.

S. 41C(2)
amended by
No. 110/1994
s. 33(2).

- (2) VPX—
- (a) may co-ordinate the operation of the generation, transmission and distribution facilities of the electricity supply system;
 - (b) may engage in any business, undertaking or activity incidental to the performance of its functions; and
 - (c) may do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

S. 41C(3)
amended by
No. 110/1994
s. 33(2).

- (3) Without limiting the generality of other powers conferred on VPX—

Electricity Industry Act 1993
Act No. 130/1993

s. 41CA

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| <p>(a) VPX may—</p> <ul style="list-style-type: none"> (i) be a member of a body corporate, association, partnership, trust or other body; or (ii) form, or participate in the formation of, a body corporate, association, partnership, trust or other body; or (iii) enter into a joint venture with another person or other persons; <p>(b) VPX may—</p> <ul style="list-style-type: none"> (i) accept gifts, grants, bequests and devises; (ii) act as trustee. <p>(4) VPX may carry on its functions and exercise its powers within or outside Victoria and outside Australia.</p> | <p>S. 41C(3)(a) amended by No. 110/1994 s. 33(2).</p> <p>S. 41C(3)(b) amended by No. 110/1994 s. 33(2).</p> <p>S. 41C(4) amended by No. 110/1994 s. 33(2).</p> |
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41CA. System security agreement

If an agreement between the Minister and a responsible Minister of the Crown in right of another State or a Territory relating to the security of the electricity system in Victoria and that State or Territory is in force, the Minister, by notice published in the Government Gazette, may declare that agreement to be a system security agreement for the purposes of section 41C.

S. 41CA inserted by No. 35/1997 s. 6.

41D. Delegation

VPX may, by instrument under its official seal, delegate to—

- (a) a director; or
- (b) an officer of VPX by name of the holder of an office within VPX; or

S. 41D inserted by No. 53/1994 s. 12, amended by No. 110/1994 s. 33(2).

S. 41D(b) amended by No. 110/1994 s. 33(2).

S. 41D(c)
amended by
No. 110/1994
s. 33(2).

- (c) the members of a committee established by VPX; or
- (d) with the consent of the Minister, any other person—
any power of VPX, other than—
- (e) this power of delegation; and
- (f) any power to make by-laws; and
- (g) any power to set a tariff or make or levy rates; and
- (h) any other power that is prescribed for the purposes of this section.

S. 41E
inserted by
No. 53/1994
s. 12.

41E. Board of directors

S. 41E(1)
amended by
No. 110/1994
s. 33(2).

- (1) There shall be a board of directors of VPX consisting of—

- (a) a chairperson;

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S. 41E(1)(b)
repealed by
No. 10/1998
s. 5(1)(g).

- (c) 2 directors nominated by the Minister after consultation with the holders of generation licences;

S. 41E(1)(d)
amended by
Nos 110/1994
s. 10(c),
56/1995
s. 8(10).

- (d) 2 directors nominated by the Minister after consultation with distribution companies and the holders of licences to sell electricity otherwise than through the wholesale electricity market;

- (e) not less than 3 and not more than 6 other directors.

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s. 41F

(2) The board of VPX—

S. 41E(2)
amended by
No. 110/1994
s. 33(2).

(a) is responsible for the management of the affairs of VPX; and

S. 41E(2)(a)
amended by
No. 110/1994
s. 33(2).

(b) may exercise the powers of VPX.

S. 41E(2)(b)
amended by
No. 110/1994
s. 33(2).

41F. *Appointment of directors*

S. 41F
inserted by
No. 53/1994
s. 12.

(1) The chairperson and other directors of VPX shall be appointed by the Governor in Council, having regard to the expertise necessary for VPX to carry out its functions.

S. 41F(1)
amended by
No. 110/1994
s. 33(2).

(2) The **Public Sector Management and Employment Act 1998** does not apply to a Director of VPX in respect of the office of director.

S. 41F(2)
amended by
Nos 110/1994
s. 33(2),
46/1998
s. 7(Sch. 1).

41G. *Terms and conditions of appointment*

S. 41G
inserted by
No. 53/1994
s. 12.

(1) A director of VPX shall be appointed for such term, not exceeding 3 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

S. 41G(1)
amended by
No. 110/1994
s. 33(2).

(2) A director of VPX holds office, subject to this Part, on such terms and conditions as are determined by the Minister and Treasurer.

S. 41G(2)
amended by
No. 110/1994
s. 33(2).

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Act No. 130/1993

s. 41H

S. 41G(3)
amended by
No. 110/1994
s. 33(2),
repealed by
No. 42/1995
s. 224(Sch. 2
item 13.1).

S. 41H
inserted by
No. 53/1994
s. 12.

S. 41HA
inserted by
No. 53/1994
s. 12.

S. 41HA(1)
amended by
No. 110/1994
s. 33(2).

S. 41HA(3)
amended by
No. 110/1994
s. 33(2).

S. 41I
inserted by
No. 53/1994
s. 12.

S. 41I(1)
amended by
No. 110/1994
s. 33(2).

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41H. *Alternate directors*

If a director, other than the chairperson, is unable to attend a meeting of the board, a person nominated by the director with the approval of the Minister, may attend the meeting and may vote.

41HA. *Chief executive officer*

- (1) The board of VPX may appoint a person approved by the Minister, after consultation with the Treasurer, as the chief executive officer of VPX.
- (2) A chief executive officer holds office, subject to this Act, on a full-time basis and on such terms and conditions as are determined by the board and specified in the instrument of appointment.
- (3) The board of VPX may remove the chief executive officer from office.

41I. *Vacancies, resignations, removal from office*

- (1) The office of a director of VPX becomes vacant if the director—
 - (a) without the board's approval, fails to attend 3 consecutive meetings of the board; or

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Act No. 130/1993

s. 41J

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| <p>(c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or</p> <p>(d) is convicted of an indictable offence or an offence which, if committed in Victoria, would be an indictable offence.</p> | <p>S. 41I(1)(b)
repealed by
No. 42/1995
s. 224(Sch. 2
item 13.2) (as
amended by
No. 79/1995
s. 37).</p> |
| <p>(2) A director of VPX may resign by writing delivered to the Minister and the Treasurer.</p> | <p>S. 41I(2)
amended by
No. 110/1994
s. 33(2).</p> |
| <p>(3) The Governor in Council may remove a director of VPX, or all directors, from office.</p> | <p>S. 41I(3)
amended by
No. 110/1994
s. 33(2).</p> |
| <p>(4) If a director of VPX—</p> <p style="padding-left: 20px;">(a) is convicted of an offence relating to his or her duties as a director; or</p> <p style="padding-left: 20px;">(b) fails, without reasonable excuse, to comply with section 41M—</p> <p style="padding-left: 40px;">the director must be removed from office by the Governor in Council.</p> | <p>S. 41I(4)
amended by
No. 110/1994
s. 33(2).</p> |
| <p>41J. <i>Validity of decisions</i></p> <p>(1) An act or decision of the board of VPX is not invalid merely because of—</p> <p style="padding-left: 20px;">(a) a defect or irregularity in, or in connection with, the appointment of a director; or</p> | <p>S. 41J
inserted by
No. 53/1994
s. 12.</p> <p>S. 41J(1)
amended by
No. 110/1994
s. 33(2).</p> |

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- (b) a vacancy in the membership of the board, including a vacancy arising from the failure to appoint an original director.
- (2) Anything done by or in relation to a person purporting to act as chairperson or as a director is not invalid merely because—
- (a) the occasion for the appointment has not arisen; or
 - (b) there was a defect or irregularity in relation to the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion for the person to act had not arisen or had ceased.

41K. *Proceedings of board*

- (1) Subject to sub-section (2), meetings of the board of VPX shall be held at such times and places as the board determines.
 - (2) The chairperson may at any time convene a meeting but must do so when requested by a director.
 - (3) A majority of the directors for the time being constitutes a quorum of the board.
 - (4) A question arising at a meeting shall be determined by a majority of votes of directors present and voting on that question and, if voting is equal, the person presiding has a casting, as well as a deliberative, vote.
 - (5) The board must ensure that minutes are kept of each of its meetings.
 - (6) Subject to this Act, the board may regulate its own proceedings.
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S. 41K
inserted by
No. 53/1994
s. 12.

S. 41K(1)
amended by
No. 110/1994
s. 33(2).

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s. 41L

41L. Resolutions without meetings

S. 41L
inserted by
No. 53/1994
s. 12.

- (1) If the directors of VPX for the time being (other than a director who is absent from Australia when the other directors sign) sign a document containing a statement that those directors are in favour of a resolution in terms set out in the document, a resolution in those terms shall be taken to have been passed at a meeting of the board held on the day on which the document is signed or, if the directors do not sign it on the same day, on the day on which the last director to sign signs the document.
- (2) If a resolution is, under sub-section (1), taken to have been passed at a meeting of the board, each director must be advised as soon as practicable and given a copy of the terms of the resolution.
- (3) For the purposes of sub-section (1), two or more separate documents containing a statement in identical terms, each of which is signed by one or more directors, shall be taken to constitute one document.

S. 41L(1)
amended by
No. 110/1994
s. 33(2).

41M. Disclosure of interests

- (1) If—
 - (a) a director of VPX has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the board; and
 - (b) the interest could conflict with the proper performance of the director's duties in relation to the consideration of the matter—

S. 41M
inserted by
No. 53/1994
s. 12.
S. 41M(1)(a)
amended by
No. 110/1994
s. 33(2).

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the director, as soon as practicable after the relevant facts come to the director's knowledge, must disclose the nature of the interest at a meeting of the board.

- (2) A disclosure under sub-section (1) must be recorded in the minutes of the meeting and, unless the Minister or the board otherwise determines, the director—
 - (a) must not be present during any deliberation of the board in relation to the matter; and
 - (b) must not take part in any decision of the board in relation to the matter.
- (3) For the purpose of the making of a determination by the board under sub-section (2) in relation to a director who has made a disclosure under sub-section (1), a director who has a direct or indirect pecuniary interest in the matter to which the disclosure relates—
 - (a) must not be present during any deliberation of the board for the purpose of making the determination; and
 - (b) must not take part in the making by the board of the determination.
- (4) Sub-section (1) does not apply in relation to a matter relating to—
 - (a) the supply of goods or services to the director if the goods or services are, or are to be, available to members of the public on the same terms and conditions; or
 - (b) in the case of a director referred to in section 41E(1)(b), (c) or (d), the business of the electricity corporation or licence holder with which the director is connected by reason only of being an officer or employee of, or

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s. 41M

shareholder in, that corporation or licence holder.

PART 3—PROPERTY AND WORKS

42AA. Definition

In this Part and Schedule 2, "**electricity corporation**" includes VPX, a distribution company, a transmission company and a generation company.

42. Power of VPX to acquire land

- (1) VPX may purchase by agreement or acquire compulsorily any land which it is authorised to acquire under this Act or which is required for the purposes of this Act or which in the opinion of VPX, and with the approval of the Governor in Council is or may be required for the purposes of carrying out its functions and exercising its powers.
- (2) The **Land Acquisition and Compensation Act 1986** applies to this section and for that purpose—
 - (a) the **Electricity Industry Act 1993** is the special Act; and
 - (b) VPX is the authority.
- (3) This section, as in force immediately before the commencement of section 9 of the **Electricity Industry (Amendment) Act 1995** continues to apply to and in respect of—
 - (a) a purchase for which a contract was entered into before that commencement; and

S. 42AA inserted by No. 53/1994 s. 13, amended by Nos 110/1994 ss 10(a), 33(2), 35/1997 s. 19(g).
 S. 42(1) amended by Nos 56/1995 s. 9(1)(a)(b), 35/1997 s. 20(1)(a)(b).
 S. 42(2) amended by No. 56/1995 s. 9(1)(c).
 S. 42(2)(b) amended by No. 56/1995 s. 9(1)(d), substituted by No. 35/1997 s. 20(2).
 S. 42(3) inserted by No. 56/1995 s. 9(2).

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s. 42A

- (b) an acquisition notice of which was given under section 6 of the **Land Acquisition and Compensation Act 1986** before that commencement.

42A. Power to acquire easements with approval of Governor in Council

S. 42A
inserted by
No. 56/1995
s. 10.

- (1) A corporation to which this section applies may, with the approval of the Governor in Council, acquire compulsorily an easement for the purpose of erecting and maintaining power lines.
- (2) The **Land Acquisition and Compensation Act 1986** applies to this section and for that purpose—
- (a) the **Electricity Industry Act 1993** is the special Act; and
- (b) the corporation to which this section applies is the Authority.

- (3) In this section—

"corporation to which this section applies" means Generation Victoria, a distribution company, a transmission company or a generation company;

"easement" includes right, charge, power or privilege in, under, over, affecting or in connection with, land.

S. 42A(3)
amended by
No. 35/1997
s. 20(3).

42B. Acquisition of land within Latrobe area

S. 42B
inserted by
No. 56/1995
s. 10.

- (1) A generation company or an associated entity of a generation company may recommend to the Minister administering the **Mineral Resources Development Act 1990** the compulsory acquisition of any land within the Latrobe area which is or may be required by the generation company or associated entity for or in connection

S. 42B(1)
amended by
No. 8/1996
s. 9(1)(a)(b).

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with, or as incidental to, carrying out operations under a licence issued to the company under Part 12.

- (2) The **Land Acquisition and Compensation Act 1986** applies to this section and for that purpose—
 - (a) the **Electricity Industry Act 1993** is the special Act; and
 - (b) the Minister administering the **Mineral Resources Development Act 1990** is the Authority.
- (3) Despite anything to the contrary in the **Land Acquisition and Compensation Act 1986**, section 109(2) of that Act does not apply to land acquired in accordance with this section by the Minister administering the **Mineral Resources Development Act 1990**.
- (4) In this section, "**associated entity**", in relation to a generation company, means a person to whom an exemption under section 160 applies in respect of an activity relating to the generation of electricity for supply or sale, being an activity for which the generation company holds a licence under Part 12.

43. *Certain rights deemed to be easements appurtenant to lands of electricity corporation*

- (1) If an electricity corporation becomes entitled under this Act to an easement, right or privilege in, over or affecting any land which, immediately before the corporation became so entitled, was vested in SEC by reason of section 103A of the **State Electricity Commission Act 1958** or in an electricity corporation under this section, the easement, right or privilege is deemed to be an easement, right or privilege vested in the

S. 42B(4)
inserted by
No. 8/1996
s. 9(2).

S. 43(1)
amended by
No. 53/1994
s. 14(1)(a)(b).

corporation and appurtenant to all land vested in the corporation from time to time.

- (2) Despite sub-section (1), if an easement, right or privilege is, in the instrument which created it, expressed to be or granted as an easement appurtenant to any land or is shown in the register kept under the **Transfer of Land Act 1958** as an easement appurtenant to any land then, when the electricity corporation disposes of that land or any part of it, unless on conveying or transferring the land or part the transferor certifies on the transfer or conveyance that the right is not required for the accommodation of that land or any part of it, the easement, right or privilege shall become and remain appurtenant to the land to which it was expressed to be, or is shown as, appurtenant and not to any other land vested in the electricity corporation.
- (3) If after the commencement of this section, an electricity corporation acquires a right or privilege in, over or affecting any land for the purposes of its works and undertakings and that right or privilege is not, or is not in any instrument expressed to be, appurtenant to any land, the right or privilege is deemed to be an easement vested in the electricity corporation and appurtenant to the lands vested in the electricity corporation for the time being and from time to time and to every part of them.
- (4) If an electricity corporation proposes to acquire a right or privilege in, over or affecting any land which would, if acquired by the corporation, be deemed to be an easement by virtue of sub-section (3), the corporation may give notice in the appropriate form of its intention to acquire the right or privilege to the Registrar of Titles.

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- (5) Section 57 of the **Transfer of Land Act 1958**, with such modifications as are necessary, applies in relation to a notice of intention to acquire given under sub-section (4) as if—
- (a) a reference in that section to an acquiring authority included the electricity corporation;
 - (b) a reference in that section to a proposal to acquire any land included a reference to a proposal to acquire the right or privilege to which the notice given under sub-section (4) relates;
 - (c) a reference in that section to a notice of intention to acquire included a notice of intention to acquire given under sub-section (4); and
 - (d) sub-section (1) of that section did not form part of that section.

44. Making of easements in subdivisions

- (1) If a proposal for subdivision or consolidation of land is referred to an electricity corporation under the **Planning and Environment Act 1987**, the corporation may require easements for the use of the corporation for any one or more of the purposes set out in Schedule 2.
- (2) The creation of an easement for a purpose specified in Column 1 of Schedule 2 gives to the corporation the rights specified in relation to an easement created for that purpose in Column 2 of that Schedule.

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Act No. 130/1993

s. 44A

44A. *Certain easements may be used for carriage service*

S. 44A
inserted by
No. 48/1996
s. 5.

(1) Despite anything to the contrary in any Act or instrument, an easement to which a transmission company is entitled may be used by a transmission company for the provision by it or another person of a carriage service within the meaning of the Telecommunications Act 1997 of the Commonwealth.

S. 44A(1)
amended by
Nos 35/1997
s. 21(1),
55/1997
s. 5(a)(b).

(2) Nothing in this Act authorises a transmission company to acquire compulsorily land or an interest in land for the purposes only of a carriage service within the meaning of sub-section (1).

S. 44A(2)
amended by
Nos 35/1997
s. 21(1),
55/1997
s. 5(a).

45. *Easements over lands held by Crown licensees or lessees*

(1) If an easement acquired by an electricity corporation for any of the purposes of this Act is an easement over land held or occupied by any licensee or lessee of the Crown, a description of the easement and a notification it has been so acquired shall be forwarded forthwith by the corporation to the Secretary to the Department of Natural Resources and Environment.

S. 45(1)
amended by
No. 46/1998
s. 7(Sch. 1).

(2) If an easement referred to in sub-section (1) is over land held or occupied under licence, the description and notification shall be indorsed on the licence by the Secretary to the Department of Natural Resources and Environment and be registered in that Department.

S. 45(2)
amended by
No. 46/1998
s. 7(Sch. 1).

(3) If a Crown grant is issued to a person of the land over which any such easement has been taken, the grant is subject to the easement.

S. 45A
inserted by
No. 110/1994
s. 11.

S. 45A(a)
amended by
No. 35/1997
s. 21(2).

S. 45B
inserted by
No. 56/1995
s. 11.

45A. Arrangements for joint use of easements

Despite anything to the contrary in this Act—

- (a) any two or more of the electricity corporations, distribution companies, transmission company and generation companies may enter into an agreement for the exercise of rights and privileges, and undertaking of obligations, by a party to the agreement in respect of any easement, right or privilege to which another party to the agreement is entitled; and
- (b) any such agreement takes effect according to its terms.

45B. Cancellation of easements

- (1) If—
 - (a) Generation Victoria or a generation company enters into an agreement to grant an easement over its land to any person; and
 - (b) that easement is registered under the **Transfer of Land Act 1958**; and
 - (c) that agreement provides for the termination of the easement or part of the easement on the giving of notice by Generation Victoria or the generation company to the person to whom the easement is granted or any successor in title of that person; and
 - (d) Generation Victoria or the generation company gives that notice in accordance with the agreement—

Generation Victoria or the generation company may give written notice to the Registrar of Titles of the termination of the easement, together with a

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copy of the agreement and of the notice under paragraph (d).

- (2) On being notified under sub-section (1), the Registrar of Titles must record in the Register the extinguishment of the easement or part.

46. Rateability of certain property

- (1) Land of the Crown used by, or land vested in and unoccupied or used for the purposes of this Act by VPX is not rateable land within the meaning of the **Local Government Act 1989**.

S. 46 substituted by No. 56/1995 s. 12.

S. 46(1) amended by No. 35/1997 s. 21(3)(a).

- (1A) Despite anything to the contrary in the **Local Government Act 1989**, land is not occupied land for the purposes of that Act merely because any pole, wire or cable of a distribution company, transmission company or generation company is on, under or over that land.

S. 46(1A) inserted by No. 79/1995 s. 5, amended by No. 35/1997 s. 21(3)(b).

- (1B) The Loy Yang B land is rateable land and an agreement under section 27 of the **Loy Yang B Act 1992** in force immediately before the commencement of section 6 of the **Electricity Industry (Loy Yang B) Act 1997** has effect as if it had been entered into under section 46(3)(a) of this Act.

S. 46(1B) inserted by No. 14/1997 s. 6(1).

- (2) Despite anything in the **Local Government Act 1989**—

- (a) a generation company or an associated entity of a generation company that is liable to pay rates in respect of land used for generation functions may, instead of paying rates in respect of that land, elect by notice in writing given to the relevant council to pay amounts agreed or determined under sub-section (3); or

S. 46(2)(a) amended by No. 8/1996 s. 9(3)(a).

S. 46(2)(b)
 amended by
 No. 8/1996
 s. 9(3)(a)(b).

(b) the relevant council may, by notice in writing given to a generation company or an associated entity of a generation company that is liable to pay rates in respect of land used for generation functions, require that company or associated entity to pay, instead of rates in respect of that land, amounts agreed or determined under sub-section (3).

S. 46(3)
 amended by
 No. 8/1996
 s. 9(3)(c).

(3) A generation company or associated entity that elects to, or is required to, pay amounts under this sub-section must pay to the relevant council—

S. 46(3)(a)
 amended by
 No. 8/1996
 s. 9(3)(c).

(a) such amount or amounts as are agreed between the generation company or associated entity and the relevant council, at such times as are so agreed; or

S. 46(3)(b)
 amended by
 No. 8/1996
 s. 9(3)(c).

(b) if, by 31 December 1995, an agreement under paragraph (a) has not been entered into between a generation company or associated entity and a relevant council, such amount and at such times as is determined by an arbitrator jointly appointed by the generation company or associated entity and the relevant council or, if within a reasonable time they fail to agree on such an appointment, by the chairperson of the Victoria Grants Commission as arbitrator or by another arbitrator nominated by that chairperson; or

S. 46(3)(c)
 amended by
 No. 8/1996
 s. 9(3)(c).

(c) if, at any time after 31 December 1995, the amount required to be paid is not the subject of an agreement under paragraph (a) or a determination under paragraph (b), such amount and at such times as is determined by an arbitrator jointly appointed by the generation company or associated entity and the relevant council or, if within a reasonable time they fail to agree on such an

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appointment, by the chairperson of the Victoria Grants Commission as arbitrator or by another arbitrator nominated by that chairperson.

- (4) In determining an amount under sub-section (3), an arbitrator must have regard to the methodology by which amounts payable under an agreement in force under section 27(2)(a) of the **Loy Yang B Act 1992** immediately before the commencement of section 6 of the **Electricity Industry Act 1993** were determined.
- (5) The **Commercial Arbitration Act 1984** applies to arbitrations under this section.
- (6) Section 221 of the **Local Government Act 1989** does not apply in relation to land owned or occupied by a generation company or an associated entity of a generation company which is land used for generation functions.
- (7) In this section—
- "associated entity"**, in relation to a generation company, means a person to whom an exemption under section 160 applies in respect of an activity relating to the generation of electricity for supply or sale, being an activity for which the generation company holds a licence under Part 12;
- "generation company"** includes Generation Victoria;
- "land used for generation functions"** means land on which a power station is situated;
- "relevant council"** means the council in whose municipal district the land used for generation functions is situated.

S. 46(4) substituted by No. 14/1997 s. 6(2).

S. 46(6) amended by No. 8/1996 s. 9(3)(d).

S. 46(7) def. of "associated entity" inserted by No. 8/1996 s. 9(4).

47. Powers as to works etc.

- (1) For the purposes of this Act, an electricity corporation, subject to this Act—
- (a) may enter upon any lands and sink bores and make surveys and do any other acts or things necessary for sinking bores or making surveys;
 - (b) may, with any equipment or devices, receive, store, transmit, or supply electricity, water, brown coal or products of brown coal over, or under, any land and may enter on any land upon either side of such equipment and fell or remove any tree or part of a tree or any obstruction which in the opinion of the electricity corporation it is necessary to fell or remove;
 - (c) subject to the **Water Act 1989**, may divert water from any waterway, lake, lagoon, swamp or marsh, or alter the bed, course or channel of any waterway;
 - (d) may enter upon any public or private land or roads and construct any works or place on under or over any such land or road any structure or equipment and may repair, alter or remove any such structure or equipment or any works under its control; and
 - (e) may do all other things necessary or convenient for constructing, maintaining, altering, or using any works or undertakings of, or under the control of, the electricity corporation.
- (2) In the exercise of the powers under sub-section (1), an electricity corporation must do as little damage as may be and, must, if required within 2 years from the exercise of the powers, make full

S. 47(1)
amended by
No. 79/1995
s. 6(1)(a)(b).

S. 47(1)(d)
amended by
No. 79/1995
s. 6(1)(c).

S. 47(1)(e)
amended by
No. 79/1995
s. 6(1)(d).

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compensation to the owner of and all parties interested in any land for any damage sustained by them in consequence of the exercise of the powers.

- (3) Compensation under sub-section (2) shall be either a gross sum or a yearly rent as may be agreed and, in default of agreement, shall be determined in the manner provided in the **Land Acquisition and Compensation Act 1986**.

- (3A) An electricity corporation may exercise its powers under this section by its officers or employees or by any other person authorised in writing by it or by the officers or employees of any such person.

S. 47(3A)
inserted by
No. 79/1995
s. 6(2).

- (4) This section applies—

S. 47(4)
inserted by
No. 53/1994
s. 14(2),
amended by
No. 56/1995
s. 13.

- (a) to a distribution company, transmission company and a generation company holding a licence under Part 12; and

S. 47(4)(a)
substituted by
No. 56/1995
s. 13,
amended by
No. 35/1997
s. 22(a).

- (aa) to the holder of any other licence under Part 12 (other than VPX) as if a reference in this section to an electricity corporation included a reference to the holder—

S. 47(4)(aa)
inserted by
No. 56/1995
s. 13.

and so applies—

- (b) subject to the conditions of the licence in relation to the exercise of powers under this section; and
- (c) subject to any access code applying in relation to the exercise of powers under this section issued by the Office of the Regulator-

General under the **Office of the Regulator-
 General Act 1994.**

47A. Application of Mineral Resources Development Act 1990 to generation companies or SEC

- (1) This section applies despite anything to the contrary in the **Mineral Resources Development Act 1990** or in any exemption granted under section 7 of that Act and any such exemption is of no effect to the extent that it relates to any land covered by a current mining licence granted in accordance with this section.
- (2) Words and expressions used in this section that are also used in the **Mineral Resources Development Act 1990** have the same meanings as in that Act.
- (3) The Governor in Council may, by Order published in the Government Gazette on the recommendation of the Minister administering the **Mineral Resources Development Act 1990**, grant a mining licence over land within the Latrobe area to a generation company or SEC.
- (4) A licence granted in accordance with this section—
 - (a) is current for the time specified in the licence; and
 - (b) applies to the land described in the licence; and
 - (c) is subject to such conditions as are determined by the Governor in Council on the recommendation of the Minister administering the **Mineral Resources Development Act 1990** (including, but not limited to, conditions about payment of royalties and any other matter referred to in

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- section 26(2) of that Act and the condition referred to in section 26(4) of that Act) and specified in the licence; and
- (d) is deemed for all purposes to be registered during the period from the commencement of the Order granting the licence until the licence is registered under sub-section (19).
- (5) The **Mineral Resources Development Act 1990** and any other Act applies to a licence granted in accordance with this section as if it had been granted by the Minister administering that Act under Part 2 of that Act.
- (6) Without limiting sub-section (5), a licence granted in accordance with this section may be renewed, transferred, varied surrendered or cancelled, or a condition of such a licence may be varied, suspended, revoked or added, under Part 2 of the **Mineral Resources Development Act 1990**.
- (7) An Order in Council under this section must—
- (a) include an authority to commence work and a work plan (including a rehabilitation plan for the land);
 - (b) specify the amount of the rehabilitation bond required to be entered into by the licensee, the form of that bond and the time at which or the event on the happening of which it must be entered into.
- (8) The **Mineral Resources Development Act 1990** and any other Act applies to an authority to commence work and a work plan included in an Order in Council under this section as if the authority to commence work had been granted by the chief administrator under section 42 of that Act and the work plan had been approved by the
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chief administrator under section 40(4) of that Act.

- (9) An authority to commence work and a work plan included in an Order in Council under this section are deemed for all purposes to be registered during the period from the commencement of the Order until the authority or plan (as the case requires) are registered under sub-section (19).
- (10) Without limiting sub-section (8), a plan having effect as an approved work plan by virtue of this section may be varied under section 41 of the **Mineral Resources Development Act 1990**.
- (11) Despite sub-sections (7) to (10), an authority to commence work included in an Order in Council under this section does not authorise the doing of work on private land unless—
- (a) the licensee has obtained the consent of the owners and occupiers of the land affected; or
 - (b) the licensee has made compensation agreements with those owners and occupiers; or
 - (c) the amount of compensation payable to those owners and occupiers has been determined under Part 8 of the **Mineral Resources Development Act 1990**; or
 - (d) the licensee has purchased the land affected.
- (12) The **Mineral Resources Development Act 1990** and any other Act applies to a rehabilitation bond entered into by a licensee in accordance with an Order in Council under this section as if it had been entered into by the licensee in accordance with section 80 of that Act.
- (13) A rehabilitation bond entered into by a licensee in accordance with an Order in Council under this
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section is deemed for all purposes to be registered during the period from the date on which it was entered into until it is registered under sub-section (19).

- (14) Without limiting sub-section (12), the Minister administering the **Mineral Resources Development Act 1990** may serve a notice on the licensee under section 80(4) or (5) of that Act.

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S. 47A(15)
repealed by
No. 14/1997
s. 5(1)(d).

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S. 47A(16)
amended by
No. 79/1995
s. 7, repealed
by No.
14/1997
s. 5(1)(d).

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S. 47A(17)(18)
repealed by
No. 14/1997
s. 5(1)(d).

- (19) Without limiting sub-section (4)(d), (9) or (13), the registrar must, in accordance with section 69 of the **Mineral Resources Development Act 1990**, register—

- (a) any licence granted in accordance with this section;
- (b) any authority to commence work or work plan included in an Order in Council under this section;
- (c) any rehabilitation bond entered into by a licensee in accordance with an Order in Council under this section.

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Pt 3A
(Heading and
ss 47B–47G)
inserted by
No. 25/1998
s. 164.

**PART 3A—ELECTRICITY SUPPLY EMERGENCY
PROVISIONS**

S. 47B
inserted by
No. 25/1998
s. 164.

47B. *Proclamation that this Part applies*

- (1) If it appears to the Governor in Council that—
 - (a) an event has occurred, or is about to occur, which may endanger an undertaking of the Commission, an electricity corporation or an electricity supplier or materially affect the safe, economical or effective supply of electricity; or
 - (b) the available supply of electricity is, or is likely to become, less than is sufficient for the reasonable requirements of the community—

the Governor in Council may by proclamation declare that this Part is to apply.
- (2) The proclamation must be published in the Government Gazette.
- (3) The proclamation takes effect on the date of its publication.

S. 47C
inserted by
No. 25/1998
s. 164.

47C. *Powers of Minister*

- (1) While a proclamation is in force, the Minister may give any directions that the Minister thinks necessary to—
 - (a) protect any undertaking of an electricity corporation or an electricity supplier; or
 - (b) ensure the safe, economical or effective supply of electricity; or

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s. 47C

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- (c) ensure that the available electricity is fairly distributed to the community; or
 - (d) increase the available supply of electricity.
- (2) Without limiting sub-section (1), the Minister may, by notice in writing, do all or any of the following—
- (a) give any directions that are necessary to control, direct, restrict or prohibit the supply, distribution, sale, use or consumption of electricity;
 - (b) direct a person or body to carry out any work required to ensure the generation, supply or distribution of electricity;
 - (c) direct a person or body to maintain or operate any services required to ensure the generation, supply or distribution of electricity;
 - (d) requisition the use of property of any kind which is used, or may be used, for or in connection with the generation, supply or distribution of electricity;
 - (e) operate, use, dispose of, distribute, store, repair and maintain any such property;
 - (f) authorise a person specified in the notice to enter any land, building or structure used for or in connection with the provision of electricity;
 - (g) authorise a person specified in the notice to withdraw the supply of electricity from any consumer the person reasonably believes is in breach of any direction given under paragraph (a);
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- (h) provide, by direction, for any matter or thing incidental to the carrying into effect of the powers referred to in this section.
- (3) A direction—
- (a) may operate generally, or may be limited in its operation according to specified times, places, circumstances, conditions or restrictions; and
 - (b) may, if so specified in the direction, allow the Minister to exempt a person or body from having to comply with the direction; and
 - (c) may be addressed or directed to people and bodies generally or particularly.
- (4) A direction must be published in the Government Gazette as soon as possible after it is made.
- (5) Notice of a requisition relating to a class of property must be published in the Government Gazette as soon as possible after it is made.
- (6) The Minister may at any time revoke a direction or return requisitioned property.
- (7) If the Minister requisitions the use of property under sub-section (2)(d), the reasonable costs of compensating the owner of that property for the requisition and making good any damage resulting from the requisition must be determined by the Minister.
- (8) If there is a dispute as to the Minister's determination, the Minister must refer the matter for arbitration by a single arbitrator under the **Commercial Arbitration Act 1984**.
- (9) Requisitioned property that has not been disposed of must be returned as soon as it is safe to do so after the Governor in Council revokes a proclamation.
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- (10) The revocation or expiry of a direction does not affect—
- (a) the previous operation of the direction; or
 - (b) the validity of any action taken under the direction; or
 - (c) any penalty or punishment incurred in respect of any failure to comply with the direction or any proceeding or remedy in respect of the penalty or punishment.

47D. Offences

S. 47D
inserted by
No. 25/1998
s. 164.

- (1) A person or body who is aware of a direction under section 47C must comply with the direction.
- (2) A person—
 - (a) to whom electricity is supplied; and
 - (b) who is aware of a direction restricting or prohibiting the use of electricity—
 must do everything reasonably possible to ensure that electricity is not used on the land or premises to which the electricity is supplied in contravention of the direction.
- (3) A person must not obstruct another person—
 - (a) exercising a power given to; or
 - (b) complying with an obligation imposed on—
 the other person under section 47C if the person has been shown a copy of the notice giving the power or imposing the obligation.
- (4) A person is deemed to be aware of a direction if the Minister has caused—
 - (a) the direction to be published in a newspaper circulating throughout the area in which the direction applies; or

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- (b) details of the direction to be broadcast by means of radio or television transmission throughout the area in which the direction applies.
- (5) In any proceedings for an offence against this section, a certificate purporting to be signed by the Minister to the effect that details of a direction were broadcast by means of radio or television transmission throughout a particular area on a specified day is prima facie evidence of the facts set out in the certificate.
- (6) In any proceedings for an offence against this section, if a direction was made in respect of part of a day and first broadcast on that day, it is sufficient defence for the defendant to prove that at the time of the commission of the offence, the defendant—
- (a) did not know; and
 - (b) could not reasonably have known—
of the direction.
- (7) A person or body who contravenes sub-section (1), (2) or (3) is guilty of an offence and liable to—
- (a) a penalty of not more than 50 penalty units; and
 - (b) in the case of a continuing offence, a further penalty of not more than 5 penalty units for each day the offence continues.
- (8) If a firm or partnership is convicted of an offence under this section, each member with a beneficial interest in the profits or capital assets of the firm or partnership is also guilty of the offence.
- (9) If an incorporated association or an unincorporated body other than a firm or
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partnership is convicted of an offence under this section, each member of the committee of management of the association or body is also guilty of the offence.

47E. *Delegation by Minister*

- (1) The Minister may, by instrument, delegate to any person or body all or any of the Minister's powers and functions under this Part (except this power of delegation).
- (2) The Minister may limit the delegation with respect to time, place or circumstance.

S. 47E
inserted by
No. 25/1998
s. 164.

47F. *Judicial notice*

All courts and any person acting judicially must take judicial notice of any proclamation, direction or general requisition made, given or imposed under this Part.

S. 47F
inserted by
No. 25/1998
s. 164.

47G. *Immunity from suit*

The Crown or any responsible Minister of the Crown or any officer, person or body exercising a power under this Part is not liable for any damage, loss or injury resulting from the exercise of that power.

S. 47G
inserted by
No. 25/1998
s. 164.

Pt 4 (Heading)
amended by
No. 25/1998
s. 165(3).

PART 4—THE ADMINISTRATOR

Division 1—The Administrator

48. *Appointment of Administrator*

- (1) There shall be an Administrator for the restructuring of the electricity supply industry.
- (2) The Administrator shall be appointed by the Treasurer after consultation with the Minister.
- (3) The term of office of the Administrator is the term (not exceeding 2 years) specified in the instrument of appointment, and the Administrator is eligible for re-appointment.
- (4) Subject to this section, the terms and conditions of appointment of the Administrator shall be set by the Treasurer after consultation with the Minister.
- (5) The Administrator is not subject to the **Public Sector Management and Employment Act 1998** by reason only of the appointment as Administrator.

49. *Vacancy etc. in office of Administrator*

- (1) The office of the Administrator becomes vacant if the Administrator—
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (b) is convicted of an indictable offence or of an offence that, if committed in Victoria, would be an indictable offence.
- (2) The Administrator may resign by writing delivered to the Minister.

S. 48(5)
amended by
No. 46/1998
s. 7(Sch. 1).

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- (3) The Treasurer after consultation with the Minister may remove the Administrator from office.

49A. Deputy Administrator

S. 49A
inserted by
No. 79/1995
s. 8.

- (1) There shall be a Deputy Administrator appointed by the Treasurer after consultation with the Minister.
- (2) The term of office of the Deputy Administrator is the term, not exceeding 2 years, specified in the instrument of appointment and the Deputy Administrator is eligible for re-appointment.
- (3) Subject to this section, the terms and conditions of appointment of the Deputy Administrator shall be set by the Treasurer after consultation with the Minister.

- (4) The Deputy Administrator is not subject to the **Public Sector Management and Employment Act 1998** by reason only of appointment as Deputy Administrator.

S. 49A(4)
amended by
No. 46/1998
s. 7(Sch. 1).

49B. Resignation and removal

S. 49B
inserted by
No. 79/1995
s. 8.

- (1) The Deputy Administrator may resign by writing delivered to the Minister.
- (2) The Treasurer, after consultation with the Minister, may remove the Deputy Administrator from office.

49C. Functions and powers

S. 49C
inserted by
No. 79/1995
s. 8.

- (1) The Deputy Administrator shall act as Administrator—
- (a) during a vacancy in the office of Administrator; and

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- (b) during any period when the Administrator is absent or, for any other reason, unable to perform the functions of Administrator—
but must not continue so to act for more than 6 months.
- (2) The Deputy Administrator—
- (a) when acting as Administrator, has and may exercise all the powers of the Administrator under this or any other Act;
- (b) at any other time, has such powers of the Administrator under this or any other Act as are specified in the instrument of appointment or as are delegated to the Deputy Administrator by the Administrator under section 52.

50. *Staff of Administrator*

The Administrator may engage such officers and employees as are necessary for the performance of the Administrator's functions, on such terms and conditions of appointment or employment as are determined by the Administrator.

51. *Functions and powers*

The Administrator has the functions and powers conferred on the Administrator under this Act, the **State Electricity Commission Act 1958** or any other Act.

52. *Delegation*

The Administrator may, in writing, delegate to a person approved by the Minister any function or power of the Administrator under this Act, the **State Electricity Commission Act 1958** or any other Act, other than this power of delegation.

53. Directions

- (1) The Treasurer and the Minister, acting jointly, may from time to time, by written notice to the Administrator, give such directions to the Administrator as the Treasurer or Minister think fit.
- (2) The Administrator must comply with a direction given under this section but an act or decision of the Administrator is not invalid merely because of a failure to comply with such a direction.
- (3) The Administrator must keep a copy of each direction given under this section available for inspection at the office of the Administrator during business hours, other than any direction, or part of a direction, that the Treasurer and the Minister have declared to be confidential.
- (4) The Administrator must include in the annual report of SEC under Part 7 of the **Financial Management Act 1994** a brief summary, in a form approved by the Treasurer, of each direction given to the Administrator under this section, together with a statement of the Administrator's response to the direction.
- (5) A notice containing a direction given under this section is an exempt document for the purposes of the **Freedom of Information Act 1982**.

S. 53
amended by
Nos 53/1994
s. 15(1),
110/1994
s. 12(a),
substituted by
No. 8/1996
s. 10.

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S. 54
amended by
Nos 53/1994
s. 15(2),
110/1994
ss 12(b), 33(2),
repealed by
No. 79/1995
s. 9.

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s. 55

Pt 4 Div. 2
(Heading and
ss 55-61)
amended by
Nos 53/1994
s. 15(3),
110/1994
ss 12(c), 33(2),
substituted as
Pt 4 Div. 2
(Heading and
ss 55-61M) by
No. 8/1996
s. 11,
amended by
No. 46/1998
s. 7(Sch. 1),
repealed by
No. 25/1998
s. 165(4).

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Victorian Legislation and Parliamentary Documents

PART 5—TRANSFER OF PROPERTY OF SEC

Division 1—Allocation of property

62. SEC to prepare allocation statement

- (1) SEC must give to the Treasurer and the Minister, within the period of 3 months after the date on which this Act receives the Royal Assent or such longer period as the Treasurer and the Minister approve, a statement approved by the Minister relating to the property, rights and liabilities of SEC as at a date specified by the Minister, (including money forming part of a fund or account of SEC under Part VII of the **State Electricity Commission Act 1958**), other than—
 - (a) excluded property;
 - (b) financial obligations;
 - (c) rights in respect of financial obligations;
 - (d) property, rights or liabilities declared by the Minister in writing given to SEC to be exempt property, rights and liabilities.
- (2) A statement under this section—
 - (a) must allocate the property, rights and liabilities of SEC shown in the statement between the electricity corporations, SEC companies, the State and SEC;
 - (b) must be signed by the chief executive officer of SEC, or, after the appointed day, by the Administrator.
- (3) If a statement under this section is approved by the Treasurer and the Minister—
 - (a) the Treasurer and the Minister must sign the statement; and

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- (b) the statement is an allocation statement for the purposes of this Act.
- (4) The Treasurer and the Minister may at any time direct SEC to amend a statement given to them under this section as specified in the direction.
- (5) An allocation statement under this section may be amended by writing signed by the Treasurer and the Minister.
- (6) In this section, "**statement**" and "**allocation statement**" include a statement or allocation statement amended in accordance with this section.

62A. Further allocation of property rights and liabilities

- (1) SEC must give to the Treasurer and the Minister, within 3 months after the commencement of section 7 of the **Electricity Industry (Loy Yang B) Act 1997**, a statement approved by the Minister and signed by the Administrator relating to property, rights and liabilities of SEC as at a date specified by the Minister and allocating that property, those rights and those liabilities on a specified day to a person or persons nominated by the Minister.
- (2) A statement under sub-section (1) must not allocate—
 - (a) any excluded property, other than the property, or rights and liabilities under the property, referred to in Part B of Schedule 3;
 - (b) financial obligations;
 - (c) rights in respect of financial obligations;
 - (d) any property, rights or liabilities declared by the Minister in writing given to SEC to be exempt property, rights and liabilities for the purposes of this section.

S. 62A
inserted by
No. 14/1997
s. 7.

Electricity Industry Act 1993
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s. 63

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- (3) If a statement under this section is approved by the Treasurer and the Minister—
 - (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement is an allocation statement for the purposes of this Act.
 - (4) The Treasurer and the Minister may at any time direct SEC to amend a statement given to them under this section as specified in the direction.
 - (5) An allocation statement under this section may be amended in writing by the Treasurer and the Minister.
 - (6) A direction under sub-section (4) or an amendment under sub-section (5) that would affect a person or persons nominated by the Minister under sub-section (1) must not be given or made unless that person or those persons are, or are wholly owned by, the State or a statutory authority.
 - (7) In this section, "**statement**" and "**allocation statement**" include a statement or allocation statement amended in accordance with this section.

63. Certificate of Administrator

- (1) A certificate signed by the Administrator certifying that property, rights or liabilities of SEC specified in the certificate has been allocated under the allocation statement to an electricity corporation or SEC company so specified or person or persons is, unless revoked under sub-section (2), conclusive evidence—
 - (a) that the property, rights or liabilities have been so allocated; and

S. 63(1)
amended by
No. 14/1997
s. 8(a).

S. 63(1)(b)
amended by
No. 14/1997
s. 8(c).

(b) if the certificate is given on or after the appointed day or allocation day, as the case requires, that the property, rights or liabilities vested in or became the property, rights or liabilities of the corporation or company or person or persons on the appointed day or allocation day, as the case requires.

(2) If the Treasurer and the Minister so direct the Administrator in writing, the Administrator must revoke a certificate given under sub-section (1) by issuing another certificate or certificates in place of the first certificate.

(3) The Administrator—

(a) must keep a register of certificates issued under this section; and

(b) must make the register reasonably available for inspection by an electricity corporation, SEC company, person or persons specified in an allocation statement or other interested person.

S. 63(3)(b)
amended by
No. 14/1997
s. 8(d).

Division 1A—Transfer of certain liabilities

Pt 5 Div. 1A
(Heading and
ss 63A–63D)
inserted by
No. 110/1994
s. 13.

63A. Allocation statement

(1) The Administrator may prepare a statement approved by the Minister relating to—

(a) liabilities of SEC under employment agreements that are part of the excluded property;

(b) liabilities of SEC relating to functions of SEC that had been discontinued before 3 January 1994.

S. 63A
inserted by
No. 110/1994
s. 13.

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s. 63B

- (2) A statement under sub-section (1)—
- (a) must allocate the liabilities of SEC shown in the statement between the electricity corporations statutory authorities or companies all the shares in which are held by, or on behalf of, the State or a statutory authority nominated in writing by the Minister;
 - (b) must be signed by the Administrator.
- (3) If the statement is approved by the Treasurer and the Minister—
- (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement is an allocation statement for the purposes of this Act.

S. 63A(2)(a)
amended by
No. 56/1995
s. 15(a).

63B. *Certificate of Administrator*

A certificate signed by the Administrator certifying that certain liabilities of SEC—

- (a) under employment agreements; or
- (b) relating to functions of SEC that had been discontinued before 3 January 1994—

specified in the certificate have been allocated to an electricity corporation or another person so specified is conclusive evidence—

- (c) that the liabilities have been so allocated; and
- (d) that the liabilities became the liabilities of the electricity corporation or person on 3 January 1994 or on such later date as is specified in the certificate.

S. 63B
inserted by
No. 110/1994
s. 13.

63C. *Liabilities transferred to electricity corporation*

All liabilities of SEC, wherever located, that are allocated under an allocation statement under this

S. 63C
inserted by
No. 110/1994
s. 13.

Division to an electricity corporation or another person, are deemed to have become liabilities of that corporation or person on 3 January 1994 or on such later date as is specified in the statement.

63D. *Meaning of "appointed day" in Division 2*

Division 2 has effect in relation to an allocation statement under this Division as if a reference to the appointed day were a reference to 3 January 1994 or such later date as is specified in the allocation statement.

Division 2—Transfer of property

64. *Property transferred to electricity corporation*

On the appointed day—

- (a) all property and rights of SEC, wherever located, that are allocated under an allocation statement to an electricity corporation, vest in that corporation; and
- (b) all liabilities of SEC, wherever located, that are allocated under an allocation statement to an electricity corporation, wherever located, become liabilities of that corporation.

65. *Property transferred to SEC company*

On the appointed day—

- (a) all property and rights of SEC, wherever located, that are allocated under an allocation statement to a SEC company vest in that company; and
- (b) all liabilities of SEC, wherever located, that are allocated under an allocation statement to a SEC company, become liabilities of that company.

66. *Property transferred to State*

On the appointed day—

- (a) all property and rights of SEC, wherever located, that are allocated under an allocation statement to the State vest in the State;
- (b) all liabilities of SEC, wherever located, that are allocated under an allocation statement to the State, become liabilities of the State.

66A. *Property transferred to other persons*

On the allocation day—

- (a) all property and rights of SEC, wherever located, that are allocated under the statement to a person or persons nominated by the Minister under section 62A vest in that person or those persons;
- (b) all liabilities of SEC, wherever located, that are allocated under the statement to a person or persons nominated by the Minister under section 62A become liabilities of that person or those persons.

S. 66A
inserted by
No. 14/1997
s. 9.

67. *Allocation of property etc. subject to encumbrances*

Unless an allocation statement under this Part otherwise provides, where, under this Part—

- (a) property and rights vest in; or
- (b) liabilities become liabilities of—

an electricity corporation, SEC company, other person or persons or the State—

- (c) the property and rights so vested are subject to the encumbrances (if any) to which they were subject immediately before so vesting; and

S. 67
amended by
No. 14/1997
s. 10(1)(a).

S. 67(d)
amended by
No. 14/1997
s. 10(1)(b).

(d) the rights to which SEC was entitled in respect of those liabilities immediately before they ceased to be liabilities of SEC vest in the electricity corporation, SEC company, person or persons or the State, as the case requires.

S. 68
amended by
No. 14/1997
s. 10(1)(c).

68. *Value of transferred property*

The value to an electricity corporation or SEC company or person or persons nominated by the Minister under section 62A of transferred property as at the appointed day or allocation day, as the case requires, is the value shown in the relevant allocation statement.

S. 69
amended by
No. 14/1997
s. 10(1)(d).

69. *Substitution of party to agreement*

If, under an allocation statement, the rights and liabilities of SEC under an agreement are allocated to an electricity corporation or SEC company or other person or persons ("**the new party**")—

S. 69(a)
amended by
No. 14/1997
s. 10(1)(e)(ii).

(a) the new party becomes, on the appointed day or allocation day, as the case requires, a party to the agreement in place of SEC; and

S. 69(b)
amended by
No. 14/1997
s. 10(1)(e)(ii).

(b) on and after the appointed day, or allocation day, as the case requires, the agreement has effect as if the new party had always been a party to the agreement.

S. 70
amended by
No. 14/1997
s. 10(1)(f).

70. *SEC instruments*

Each SEC instrument relating to transferred property continues to have effect according to its tenor on and after the appointed day or allocation day, as the case requires as if a reference in the instrument to SEC were a reference to the transferee of the transferred property.

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s. 71A

71. Proceedings

If, immediately before the appointed day or allocation day, as the case requires, proceedings relating to transferred property (including arbitration proceedings) to which SEC was a party were pending or existing in any court or tribunal, then, on and after the appointed day or allocation day, as the case requires, the transferee of the transferred property is substituted for SEC as a party to the proceedings and has the same rights in the proceedings as SEC had.

S. 71
amended by
No. 14/1997
s. 10(1)(g).

71A. Criminal proceedings

- (1) If SEC is convicted (whether before or after the commencement of section 14 of the **Electricity Industry (Further Amendment) Act 1994**) of an offence in respect of which a fine is payable, the Administrator may prepare a statement allocating liability to pay the fine to an electricity corporation, statutory authority or company all the shares in which are held by, or on behalf of, the State or a statutory authority.
- (2) If the statement is approved by the Treasurer and the Minister—
 - (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement allocates liability to pay the fine to the electricity corporation or other person specified in it; and
 - (c) the electricity corporation or other person is liable to pay the fine as if it had committed and been convicted of the offence.

S. 71A
inserted by
No. 110/1994
s. 14 (as
amended by
No. 10/1998
s. 10(2)).

S. 71A(1)
amended by
No. 56/1995
s. 15(b).

Victorian Legislation and Parliamentary Documents

S. 72
amended by
No. 14/1997
s. 10(1)(h).

72. *Interests in land*

Without prejudice to the generality of this Act and despite anything to the contrary in any other Act or law, if, immediately before the appointed day or allocation day, as the case requires, SEC is, in relation to transferred property, the registered proprietor of an interest in land under the **Transfer of Land Act 1958**, then on and after the appointed day or allocation day, as the case requires—

- (a) the transferee of the transferred property is to be taken to be the registered proprietor of that interest in land; and
- (b) the transferee has the same rights and remedies in respect of that interest as SEC had.

73. *Amendment of Register*

(1) The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument and certificate of the Administrator, must make any amendments in the Register that are necessary because of the operation of this Act.

S. 73(1A)
inserted by
No. 10/1998
s. 7(1).

(1A) Despite sub-section (1), it is not necessary to produce a certificate of title in the case of a request for amendment to the Register in relation to transferred property that is an easement registered under the **Transfer of Land Act 1958**.

(2) The Registrar-General must make all entries on the records of enrolment of any Crown grant and on any memorial relating to land that are necessary because of the operation of this Act.

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s. 74

- (3) If any land allocated under an allocation statement under this Part is not Crown land and is not under the operation of the **Transfer of Land Act 1958**, the electricity corporation or SEC company concerned, or other person or persons or, in the case of property allocated to the State, the Minister, must, as soon as practicable after the land vests in accordance with the allocation statement cause a memorial of the certificate of the Administrator (that complies with Part 1 of the **Property Law Act 1958**) to be delivered to the office of the Registrar-General and, for the purposes of that Part, that certificate must be taken to be an instrument affecting land.

S. 73(3)
amended by
No. 14/1997
s. 10(1)(i).

74. Taxes

No stamp duty or other tax is chargeable under any Act in respect of anything done under this Act or in respect of any act or transaction connected with or necessary to be done by reason of this Act, including a transaction entered into or an instrument made, executed, lodged or given, for the purpose of, or connected with—

- (a) the transfer of property, rights or liabilities of SEC to an electricity corporation or SEC company or person or persons nominated by the Minister under section 62A; or
- (b) the transfer, within 6 months after the appointed day, of property, rights or liabilities by an electricity corporation to another electricity corporation or SEC company or person or persons nominated by the Minister under section 62A.

S. 74(a)
amended by
No. 14/1997
s. 10(1)(j).

S. 74(b)
amended by
No. 14/1997
s. 10(1)(j).

75. Evidence

- (1) Documentary or other evidence that would have been admissible for or against the interests of SEC

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in relation to transferred property if this Act had not been enacted, is admissible for or against the interests of the transferee of the transferred property.

- (2) Division 3A of Part III of the **Evidence Act 1958** continues to apply with respect to the books of account of SEC and to entries made in those books of account before the appointed day, whether or not they relate to transferred property.
- (3) In sub-section (2), "**books of account**" has the same meaning as in Division 3A of Part III of the **Evidence Act 1958**.

76. *Validity of things done under this Act*

- (1) Nothing effected by this Act or done or suffered by SEC, the State, a Minister, an electricity corporation or SEC company or person or persons nominated by the Minister under section 62A under this Act—
 - (a) is to be regarded as placing SEC, the State, a Minister, the corporation or company or person or persons nominated by the Minister under section 62A in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
 - (b) is to be regarded as placing any of them in breach of or as constituting a default under any Act or other law or any provision in any agreement, arrangement or understanding including, without limiting the generality of the foregoing, any provision prohibiting, restricting or regulating the assignment or transfer of any property or the disclosure of any information; or
 - (c) is to be regarded as fulfilling any condition which allows a person to exercise a right or

S. 76(1)
amended by
No. 14/1997
s. 10(1)(k)(i).

S. 76(1)(a)
amended by
No. 14/1997
s. 10(1)(k)(ii).

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- remedy in respect of or to terminate any agreement or obligation; or
- (d) releases any surety or other obligee wholly or in part from any obligation.
- (2) The validity of any act or transaction of SEC or the Administrator must not be called in question in any proceedings on the ground that any provision of this Act or the **State Electricity Commission Act 1958** had not been complied with.

Division 3—Financial obligations of SEC

77. *Financial obligations of SEC*

- (1) SEC must give to the Treasurer and the Minister, within the period of 3 months after the day on which this Act receives the Royal Assent or such longer period as the Treasurer and Minister approve, a statement, in a form approved by the Treasurer and the Minister, of its financial obligations valued at a fair market value as at a date specified by the Minister.
- (2) The statement under sub-section (1)—
- (a) must allocate, for the purposes of section 29, responsibility for the financial obligations to which that section applies between the electricity corporations; and
- (b) must specify the financial obligations of SEC to which section 29 does not apply and specify the electricity corporation that is to be responsible for making payments to SEC in respect of SEC's liability under particular financial obligations.
- (3) If the statement is approved by the Treasurer and the Minister—

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- (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement is the allocation statement of financial obligations for the purposes of this Division.
- (4) An allocation statement of financial obligations may be amended, or further amended, in writing signed by the Treasurer and the Minister.
 - (5) In relation to an amendment, or further amendment, of a statement after the commencement of section 7 of the **Electricity Industry (Miscellaneous Amendment) Act 1997**, "**electricity corporation**" in this section includes VPX, a public distribution company, a public transmission company and a public generation company.

78. *Electricity corporations to make payments to SEC*

- (1) Each electricity corporation must pay to SEC such amounts, and at such time, as SEC is liable to pay in respect of financial obligations for which the electricity corporation is responsible in accordance with the allocation statement under section 77.
- (2) SEC must pay to each electricity corporation amounts that SEC receives in respect of financial obligations (including amounts received under swap contracts) for which the electricity corporation is responsible in accordance with the allocation statement under section 77.
- (3) In this section "**swap contract**" means an agreement entered into by SEC with another person under which—
 - (a) SEC undertakes to make payments in any currency to, or to the account of, the other party to the agreement; and

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s. 78

(b) the other party undertakes to make payments to, or to the account of, SEC in the same or another currency.

(4) In this section, "**electricity corporation**" includes VPX, a public distribution company, a public transmission company and a public generation company.

S. 78(4) inserted by No. 53/1994 s. 16(2), amended by Nos 110/1994 ss 15, 33(2), 56/1995 s. 16(b), 35/1997 s. 7(2).

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Pt 5 Div. 4 (Heading and s. 79) amended by No. 53/1994 s. 17, repealed by No. 10/1998 s. 8(b).

PART 6—STAFF

80. Definitions

In this Part—

"body" means SEC, electricity corporation, SEC company, Energy Brix Corporation Australia (a State Body within the meaning of the **State Owned Enterprises Act 1992**) or the chief electrical inspector;

"Chief Executive Officer" means Chief Executive Officer of SEC;

"new employer", in relation to a transferred employee, means the body by which, by virtue of section 82, the transferred employee is regarded as being employed with effect from the appointed day;

"transferred employee" means a person who, by virtue of section 82, is regarded as being employed by a new employer with effect from the appointed day or a specified later day.

81. List of SEC staff

- (1) Before the appointed day, SEC must prepare and submit to the Minister and Treasurer a document signed by the Chief Executive Officer listing all the officers and employees of SEC and specifying, in respect of each such officer or employee, the body by which he or she is to be regarded as having been employed by virtue of section 82 with effect from the appointed day or such later day as is specified.

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- (2) The document may be amended—
- (a) before the appointed day, by instrument signed by the Chief Executive Officer and given to the Minister and Treasurer;
 - (b) on or after the appointed day, by instrument signed by the Administrator and given to the Minister and Treasurer—

and the amendment is to be regarded as having effect, or having had effect, from the appointed day.

- (3) Nothing in this section prevents a person listed in the document as an officer or employee of SEC from resigning or being dismissed at any time before the appointed day or later day specified under sub-section (1) in relation to that person in accordance with the terms and conditions of his or her appointment or employment.

82. *Transfer of SEC staff*

- (1) A person listed as an officer or employee of SEC in a document under section 81 who was such an officer or employee immediately before the appointed day is to be regarded as—
- (a) having been employed by the new employer with effect from the appointed day; and
 - (b) having been so employed on the same terms and conditions as those that applied to the person, immediately before the appointed day, as an officer or employee of SEC; and
 - (c) having accrued an entitlement to benefits, in connection with that employment by the new employer, that is equivalent to the entitlement that the person had accrued, as an officer or employee of SEC, immediately before the appointed day.

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S. 82(3)
amended by
No. 53/1994
s. 23(1)(b).

- (2) The service of a transferred employee as an employee of the new employer is to be regarded for all purposes as having been continuous with the service of the employee, immediately before the appointed day, as an officer or employee of SEC.
- (3) A transferred employee is not entitled to receive any payment or other benefit by reason only of having ceased to be an officer or employee of SEC because of this Act.
- (4) The secretary of SEC does not, because of the operation of this Act, become the secretary of the new employer but nothing in this sub-section prevents him or her being appointed as such on or after the appointed day.
- (5) A certificate purporting to be signed by the Administrator certifying that a person named in the certificate was with effect from the appointed day employed, by virtue of this section, by a body named in the certificate is admissible in evidence in any proceedings and is conclusive proof of the matters stated in it.

83. *Future terms and conditions of transferred employees*

- (1) Nothing in section 82 prevents—
 - (a) any of the terms and conditions of employment of a transferred employee from being altered by or under any law, award or agreement with effect from any time after the appointed day; or
 - (b) a transferred employee from transferring to the employment of another electricity corporation at any time on or after the appointed day on terms and conditions agreed to by the employee and that other electricity corporation; or

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- (c) a transferred employee from resigning or being dismissed at any time after the appointed day in accordance with the then existing terms and conditions of his or her employment by the new employer.
 - (2) The service of a transferred employee as an employee of another electricity corporation to which he or she transfers as mentioned in sub-section (1)(b) is to be regarded for all purposes as having been continuous with the service of the employee, immediately before the appointed day, as an officer or employee of SEC and with his or her service on or after that day as an employee of an electricity corporation.

84. Superannuation

- (1) Subject to this section, the SEC Superannuation Fund as constituted and governed under rules made by SEC under clause 5 under the heading "BUSINESS AND RULES" in the Sixth Schedule to the **State Electricity Commission Act 1958** and in force immediately before the appointed day continues, on and after that day, as the Victorian Electricity Industry Superannuation Fund.
- (2) Subject to the rules referred to in sub-section (1), SECV Superannuation Pty Ltd continues, on and after the appointed day, as trustee of the Fund continued by sub-section (1) on and after that day.
- (3) The rules referred to in sub-section (1) continue in force, on and after the appointed day, as the Victorian Electricity Industry Superannuation Fund Rules despite the repeal by this Act of the provision under which they were made.
- (4) Without limiting sub-section (5), SEC must before the appointed day amend the rules referred to in sub-section (1)—

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- (a) to extend their application with effect from the appointed day to electricity corporations, SEC companies and such other bodies as the Minister directs by writing given to SEC and to employees of electricity corporations, SEC companies or such other bodies; and
- (b) to recognise for the purposes of membership of the Fund the continuity of service that must be taken to exist by virtue of section 82(2) or 83(2); and
- (c) generally to give effect to this section.

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S. 84(5)
repealed by
No. 4/1996
s. 134(2).

- (6) SEC—
 - (a) must not make any amendment of the rules referred to in sub-section (1) which would result in the Fund not being or not being deemed to be a complying fund for the purposes of Part IX of the Income Tax Assessment Act 1936 of the Commonwealth as amended and in force from time to time; and
 - (b) must at all times use its best endeavours to ensure that the Fund is a complying fund for those purposes.
- (7) All rights, benefits, entitlements, liabilities and obligations of the members or former members of the Fund and their beneficiaries existing immediately before the appointed day continue, on and after that day, subject to rules made under this section.
- (8) Section 4 of the **Public Sector Superannuation (Administration) Act 1993** applies in relation to any inconsistency between this section and that

Electricity Industry Act 1993
Act No. 130/1993

s. 84

Act and to any inconsistency between this section
and rules referred to in sub-section (1).

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Pt 6A
(Heading and
s. 84AA)
inserted by
No. 110/1994
s. 16, repealed
by No.
56/1995 s. 17.

PART 7—GENERAL

84A. *Public distribution company, public transmission company and public generation company*

A public distribution company, public transmission company or public generation company is a public authority but does not represent the Crown.

84AAA. *Certain assets not to be fixtures*

- (1) The Minister may, by written notice, declare that specified assets that are affixed to land and that are disposed of by VPX, a public transmission company or a public generation company are taken, for all purposes, to be separate assets being chattels personal and not fixtures.
- (2) The declaration has effect accordingly.

84AA. *Financial benefits given on arm's length terms*

- (1) A financial benefit given before 1 July 1995 by a distribution company or generation company under a relevant contract to a recipient is deemed for the purposes of Part 3.2A of the Corporations Law of Victoria (despite anything to the contrary in that Law) to have been given on terms and conditions no more favourable to the recipient than those on which it is reasonable to expect that the first-mentioned distribution company or generation company would have given the benefit directly if dealing with the recipient at arm's length in the same circumstances.

Electricity Industry Act 1993
Act No. 130/1993

s. 84AB

(2) In sub-section (1)—

"recipient" means Power Net Victoria, VPX, SEC, Generation Victoria, a distribution company or a generation company;

"relevant contract" means use of system agreement, connection agreement, distribution system agreement, tariffs and charges deed or vesting hedging contract.

84AB. *Sale of Land Act 1962*

S. 84AB
inserted by
No. 79/1995
s. 10.

- (1) The Governor in Council, by Order published in the Government Gazette, may declare that a generation company, transmission company or distribution company is not required, in respect of a particular sale or class of sales, to include in the vendor's statement under section 32 of the **Sale of Land Act 1962** such of the particulars referred to in sub-section (2)(e) of that section as are specified in the Order.
- (2) An Order under sub-section (1) may be subject to such conditions as are specified in the Order, including conditions requiring disclosure of information of a particular kind.
- (3) A failure to comply with a condition of an Order under this section is deemed to be a failure to comply with section 32 of the **Sale of Land Act 1962**.

S. 84AB(1)
amended by
No. 35/1997
s. 22(c).

84AC. *Building Act 1993*

The Commissioner of the Building Control Commission under the **Building Act 1993**, by notice published in the Government Gazette, may

S. 84AC
inserted by
No. 79/1995
s. 10.

determine that building work, or a building, on land of a generation company is exempt from the provisions of the **Building Act 1993** and regulations under that Act specified in the notice, subject to such conditions (if any) as are so specified.

84B. *Persons dealing with electricity corporations or VPX*

A certificate issued by the chief executive officer of an electricity corporation or VPX to a person having dealings with the corporation or VPX certifying that an act or transaction is an act or transaction that the corporation or VPX is authorised to do or enter into under its licence and the licence conditions under Part 12 is conclusive evidence, as between that person and the corporation or VPX, that the corporation or VPX is so authorised.

84C. *Reports to Treasurer*

The Treasurer may, in writing, require the board of directors of an electricity corporation, VPX, a public distribution company, public transmission company or a public generation company to give to the Treasurer such information as the Treasurer considers necessary.

84D. *Disclosure of information*

- (1) Electricity Services Victoria or a distribution company is authorised, for the purposes of the activities authorised by licences under Part 12, to disclose to any distribution company any information relating to a customer or former customer of Electricity Services Victoria or the distribution company contained in a customer information data base of Electricity Services Victoria or the company.

S. 84B
inserted by
No. 53/1994
s. 18,
amended by
No. 110/1994
s. 33(2).

S. 84C
inserted by
No. 53/1994
s. 18,
amended by
Nos 110/1994
ss 18(a), 33(2),
56/1995
s. 19(a),
35/1997
s. 22(d).

S. 84D
inserted by
No. 53/1994
s. 18.

(2) This section ceases to have effect on 30 June 1995.

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S. 84E
inserted by
No. 53/1994
s. 18,
amended by
No. 110/1994
ss 18(b), 33(2),
repealed by
No. 10/1998
s. 8(a).

85. *Delegation by Minister and Treasurer*

The Minister or the Treasurer may, in writing, delegate to any person any function or power of the Minister or Treasurer under this Act, other than this power of delegation.

86. *Agreements about certain matters*

Despite anything to the contrary in this Act—

- (a) a Minister or the State, or, with the consent of the Minister, SEC, an electricity corporation, VPX, a distribution company, a transmission company, a generation company or SEC company may enter into an agreement concerning property, obligations, rights or liabilities that, under section 62(1), may not be included in an allocation statement under that section but may be affected by this Act, or by anything done or suffered under this Act, whether directly or indirectly; and
- (b) any such agreement takes effect according to its terms.

S. 86(a)
amended by
Nos 53/1994
s. 19(1)(a),
110/1994
ss 18(c), 33(2),
35/1997
s. 22(e).

S. 87
amended by
Nos 53/1994
s. 19(1)(b),
110/1994
s. 33(2).

87. Service of documents on electricity corporation

A document required or authorised to be served on an electricity corporation or VPX may be served—

- (a) personally on a person—
 - (i) apparently concerned in the management of the corporation or VPX; or
 - (ii) apparently authorised to accept service of documents on behalf of the corporation or VPX; or
- (b) by post to the corporation or VPX at its principal office.

S. 87(a)(i)
amended by
Nos 53/1994
s. 19(1)(c),
110/1994
s. 33(2).

S. 87(a)(ii)
amended by
Nos 53/1994
s. 19(1)(c),
110/1994
s. 33(2).

S. 87(b)
amended by
Nos 53/1994
s. 19(1)(c),
110/1994
s. 33(2).

88. Evidence of documents

- (1) A document issued or purporting to have been issued by an electricity corporation or VPX and purporting to have been signed by the chief executive officer of the corporation or VPX is evidence that the document was issued by the corporation or VPX.
- (2) A document issued or purporting to have been issued by the chief electrical inspector and—
 - (a) if the chief electrical inspector is a natural person, purporting to have been signed by the chief electrical inspector; or
 - (b) if the chief electrical inspector is a body corporate, purporting to have been signed by the chief executive officer (by whatever name called) of the body corporate—

S. 88(1)
amended by
Nos 53/1994
s. 19(1)(b)(c),
110/1994
s. 33(2).

is evidence that the document was issued by the chief electrical inspector.

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S. 89
repealed by
No. 53/1994
s. 19(d).

90. Treasurer may give guarantee

- (1) The Treasurer may, on behalf of the Government of Victoria, execute a guarantee on such terms and conditions as the Treasurer determines in favour of any person guaranteeing the due satisfaction of amounts that become payable by an electricity corporation, VPX, a public distribution company, public transmission company or a public generation company under section 29(1) or of amounts that become payable and of other actions required to be performed as a result of or in connection with the provision to an electricity corporation, VPX or a public distribution company, public transmission company or public generation company of financial accommodation including without limiting the generality of the foregoing, the payment of expenses of enforcing or obtaining or endeavouring to obtain such satisfaction.
- (2) Any sums required by the Treasurer in fulfilling any liability arising under a guarantee given under this section shall be paid out of the Consolidated Fund, which is to the necessary extent appropriated accordingly.
- (3) Any sums received or recovered by the Treasurer from an electricity corporation, VPX, a public distribution company, public transmission company or a public generation company or otherwise in respect of any sum paid by the Treasurer under a guarantee shall be paid into the Consolidated Fund.

S. 90(1)
amended by
Nos 53/1994
s. 19(1)(e)(f),
110/1994
ss 18(d), 33(2),
56/1995
s. 19(b)(c),
35/1997
s. 22(f).

S. 90(3)
amended by
Nos 53/1994
s. 19(1)(e),
110/1994
ss 18(d), 33(2),
56/1995
s. 19(d),
35/1997
s. 22(f).

S. 91
amended by
Nos 53/1994
s. 19(2),
8/1996 s. 12.

91. *Trade Practices Act 1974 of the Commonwealth*

The regulations may provide that any act or thing or kind of act or thing of or relating to a particular electricity corporation or a subsidiary of an electricity corporation, or the holder of a licence under Part 12 is authorised for a particular period for the purposes of Part IV of the Trade Practices Act 1974 of the Commonwealth and the Competition Code.

S. 91AA
inserted by
No. 8/1996
s. 13.

91AA. *Trade Practices Act and Competition Code*

- (1) For the purposes of Part IV of the Trade Practices Act 1974 of the Commonwealth and the Competition Code, this Act authorises a person or body referred to in sub-section (2)—

- (a) to supply and purchase goods and services;
- (b) to enter into and perform agreements;
- (c) to comply with obligations;
- (d) to exercise rights and powers—

as required or authorised under, and subject to such terms and conditions as are applicable under—

- (e) except as provided in sub-section (4), a licence issued under Part 12;

* * * * *

- (g) an Order under section 158A;
- (h) an agreement referred to in sub-section (3).

- (2) The persons and bodies referred to in this sub-section are—

S. 91AA(1)(e)
substituted by
No. 35/1997
s. 8(1).

S. 91AA(1)(f)
repealed by
No. 35/1997
s. 9.

Electricity Industry Act 1993
Act No. 130/1993

s. 91AA

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- * * * * *
- S. 91AA(2)(a)
repealed by
No. 10/1998
s. 5(1)(h).
- (b) Generation Victoria;
 - (c) Victorian Power Exchange;
 - (d) a subsidiary of a body referred to in paragraph (a), (b) or (c);
 - (e) a person holding a licence issued under Part 12.
- (3) The agreements referred to in this sub-section are each agreement (entitled "vesting contract") entered into by a distribution company in October 1994 or March 1995 for the purposes of hedging the price payable by the distribution company under the pool rules within the meaning of Part 12 in relation to electricity acquired by the distribution company for sale to franchise customers, being an agreement entered into with—
- (a) a generation company; or
 - (b) SEC; or
 - (c) Energy Brix Corporation Australia (a State Body within the meaning of the **State Owned Enterprises Act 1992**).
- (4) The authority conferred by sub-section (1) does not apply to requirements or authorisations under a condition of a licence issued under Part 12 that—
- (a) requires the licensee to observe specified industry codes;
 - (b) provides for the resolution of disputes between the licensee and other persons;
- S. 91AA(4)
inserted by
No. 35/1997
s. 8(2).

- (c) requires the licensee to pay to the Office specified fees and charges in respect of the licence;
- (d) specifies the procedures to apply if an administrator is appointed under section 166;
- (e) specifies procedures for variation or revocation of the licence.

91A. *Exemption from Freedom of Information Act*

An electricity corporation, VPX, a distribution company, a transmission company or a generation company is not, and is not eligible to be declared to be, an agency or prescribed authority within the meaning of the **Freedom of Information Act 1982**.

91AB. *Ombudsman Act 1973 not to apply*

An electricity corporation, VPX, a distribution company, a transmission company or a generation company is not a public statutory body to which the **Ombudsman Act 1973** applies.

91AC. *Obligations under certain contracts*

- (1) Despite anything to the contrary in this Act or in a licence issued in accordance with Part 12—
 - (a) SEC is deemed to be, and at all relevant times to have been, the holder of a licence within the meaning of Part 12 authorising SEC to the extent necessary to enable it to comply with its obligations in relation to excluded property; and
 - (b) the purchase by, and sale to, SEC of electricity for the purposes of compliance by SEC with its obligations in relation to excluded property is, and is deemed at all relevant times to have been, authorised; and

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s. 91B

(c) no person, other than SEC, is authorised—

- (i) to sell electricity; or
- (ii) except for or on behalf of SEC, to transmit, distribute or supply electricity—

to a person for use in connection with facilities or installations for which SEC is required to supply electricity under an agreement, contract or document referred to in Schedule 3.

- (2) Sub-section (1)(c)(ii) does not prohibit an activity that is otherwise authorised by an Order in Council made under the **Electric Light and Power Act 1958** and in force immediately before the commencement of section 25 of the **Electricity Industry (Amendment) Act 1994**.

91B. Debt proceedings

In a proceeding in the Magistrates' Court for a debt owing to a distribution company any person authorised by the distribution company in writing for that purpose may file a complaint in that person's own name or in the name of the distribution company and may represent the distribution company in all respects as though that person was the party concerned.

S. 91B
inserted by
No. 53/1994
s. 20.

92. Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations are subject to disallowance by a House of the Parliament.

S. 92
amended by
No. 56/1995
s. 20(1).

S. 92(2)
inserted by
No. 56/1995
s. 20(2).

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PART 8—TRANSITIONAL

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S. 93
repealed by
No. 10/1998
s. 8(a).

94. *Generation Victoria successor of State Body*

- (1) On the day on which this Act receives the Royal Assent—
 - (a) all property and rights of the body known as Generation Victoria established under the State Owned Enterprises (State Body— Generation Victoria) Order 1993 published in the Government Gazette No. S74 dated 7 October 1993 ("the State Body") vest in Generation Victoria;
 - (b) all liabilities of the State Body become liabilities of Generation Victoria;
 - (c) Generation Victoria becomes the successor in law of the State Body;
 - (d) the State Body is dissolved.
- (2) A person holding office, immediately before the commencement of this section as a director (including chief executive officer, if any) of the state Body referred to in sub-section (1) is deemed to have been appointed, on that commencement, as director or chief executive officer of Generation Victoria for a term equivalent to the remainder of the term for which, and on the same terms and conditions as those in which, he or she was appointed to the State Body.

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S. 95
repealed by
No. 10/1998
s. 8(a).

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s. 96

S. 96
amended by
Nos 53/1994
s. 21(1)(a)-
(e)(2),
110/1994
ss 20(1)(a)(b)
(2), 33(2),
repealed by
No. 10/1998
s. 8(a).

* * * * *

S. 97
amended by
Nos 53/1994
s. 21(3)(a)-(c),
110/1994
s. 20(3),
repealed by
No. 10/1998
s. 8(a).

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Victorian Legislation and Parliamentary Documents

**PART 9—TRANSFER OF PROPERTY AND STAFF OF
 NATIONAL ELECTRICITY**

Pt 9 (Heading and ss 98–113) substituted as Pt 9 (Headings and ss 98–115A) by No. 53/1994 s. 24.
 Pt 9 Div. 1 (Heading) inserted by No. 53/1994 s. 24.

Division 1—Definitions

98. Definitions

S. 98 substituted by No. 53/1994 s. 24.

(1) In this Part—

"chief executive officer" means chief executive officer of National Electricity;

"former National Electricity property" means property, rights or liabilities of National Electricity that, under this Part, have vested in, or become liabilities of, another person;

"National Electricity instrument" means an instrument (including a legislative instrument other than this Act) subsisting immediately before the relevant date—

- (a) to which National Electricity was a party; or
- (b) that was given to or in favour of National Electricity; or
- (c) that refers to National Electricity; or
- (d) under which—
 - (i) money is, or may become, payable to or by National Electricity; or

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- (ii) other property is to be, or may become liable to be, transferred to or by National Electricity;

"new employer", in relation to a transferred National Electricity employee, means the body by which, by virtue of section 114, the transferred National Electricity employee is regarded as being employed with effect from the relevant date;

"relevant date"—

- (a) in relation to an allocation statement or property, rights or liabilities allocated under an allocation statement, means the date fixed by the Minister under sub-section (2) for the purposes of that statement;
- (b) in relation to a document referred to in section 113(1), means the date fixed by the Minister under sub-section (2) for the purposes of that document;

"transferred National Electricity employee" means a person who, by virtue of section 114, is regarded as being employed by a new employer with effect from the relevant date;

"transferee", in relation to former National Electricity property, means the person to whom the property has been transferred under this Part.

- (2) The Minister may, by notice published in the Government Gazette—
- (a) fix the relevant date for the purposes of an allocation statement under section 99;
- (b) fix the relevant date for the purposes of a document referred to in section 113(1).
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Division 2—Allocation of property

Pt 9 Div. 2
(Heading)
inserted by
No. 53/1994
s. 24.

99. Minister may direct National Electricity to transfer property

S. 99
substituted by
No. 53/1994
s. 24.

- (1) The Minister may, in writing, direct National Electricity to transfer property, rights and liabilities of a specified kind to a person or persons nominated by the Minister.
- (2) Within 3 months after receiving a direction under sub-section (1), National Electricity must give to the Minister a statement approved by the Minister relating to the property, rights and liabilities of National Electricity to which the direction relates, as at a date specified by the Minister for the purposes of the statement.
- (3) A statement under this section—
 - (a) must allocate the property, rights and liabilities of National Electricity shown in the statement to, or between, the person or persons nominated by the Minister; and
 - (b) must be signed by the chief executive officer.
- (4) If a statement under this section is approved by the Treasurer and the Minister—
 - (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement is an allocation statement for the purposes of this Part.
- (5) The Treasurer and the Minister may at any time direct National Electricity to amend a statement given to them under this section as specified in the direction.

S. 99(6A)
inserted by
No. 56/1995
s. 21,
amended by
No. 35/1997
s. 22(i).

S. 100
substituted by
No. 53/1994
s. 24.

(6) An allocation statement under this section may be amended by writing signed by the Treasurer and the Minister.

(6A) A direction under sub-section (1) or (5) or an amendment under sub-section (6) that would affect a distribution company, a transmission company or a generation company must not be given or made unless all the shares in the company are held by, or on behalf of, the State or a statutory authority.

(7) In this section, "**statement**" and "**allocation statement**" include a statement or allocation statement amended in accordance with this section.

100. *Certificate of chief executive officer*

(1) A certificate signed by the chief executive officer certifying that property, rights or liabilities of National Electricity specified in the certificate have been allocated under the allocation statement to a person so specified is, unless revoked under sub-section (2), conclusive evidence—

- (a) that the property, rights or liabilities have been so allocated; and
- (b) that the property, rights or liabilities vested in or became the property, rights or liabilities of the transferee on the relevant date.

(2) If the Treasurer and the Minister so direct the chief executive officer in writing, the chief executive officer must revoke a certificate given under sub-section (1) by issuing another certificate or certificates in place of the first certificate.

(3) The chief executive officer—

- (a) must keep a register of certificates issued under this section; and

(b) must make the register reasonably available for inspection by a transferee or other interested person.

(4) In this section, "**chief executive officer**" means the Administrator.

S. 100(4)
inserted by
No. 10/1998
s. 5(2).

Division 3—Transfer of property

Pt 9 Div. 3
(Heading)
inserted by
No. 53/1994
s. 24.

101. *Property transferred to nominee*

S. 101
substituted by
No. 53/1994
s. 24.

On the relevant date—

- (a) all property and rights of National Electricity, wherever located, that are allocated under an allocation statement to a person nominated by the Minister in a direction under section 99, vest in that person; and
- (b) all liabilities of National Electricity, wherever located, that are allocated under an allocation statement to that person, become liabilities of that person.

102. *Allocation of property etc. subject to encumbrances*

S. 102
substituted by
No. 53/1994
s. 24.

Unless an allocation statement under this Part otherwise provides, where, under this Part—

- (a) property and rights vest in; or
 - (b) liabilities become liabilities of—
- a person nominated by the Minister in a direction under section 99—
- (c) the property and rights so vested are subject to the encumbrances (if any) to which they

were subject immediately before so vesting;
and

- (d) the rights to which National Electricity was entitled in respect of those liabilities immediately before they ceased to be liabilities of National Electricity vest in the transferee.

103. *Value of former National Electricity property*

- (1) The value to a person nominated by the Minister in a direction under section 99 of former National Electricity property as at the relevant date is the value shown in, or calculated in accordance with, the relevant allocation statement.
- (2) If a person nominated by the Minister in a direction under section 99 is a distribution company or transmission company, the consideration payable by the distribution company or transmission company in respect of former National Electricity property vested in it under an allocation statement under this Part is an amount equal to the value shown in, or calculated in accordance with, the statement.
- (3) On the date notified in writing to the distribution company or transmission company by the Treasurer for the purposes of this sub-section, a distribution company or transmission company becomes liable to pay to the Treasurer, at the time and in the manner specified by the Treasurer, an amount equal to the sum of the considerations referred to in sub-section (2), less the value of the liabilities that, before that date, have become liabilities of the distribution company or transmission company, as the case requires, under an allocation statement under this Part.

S. 103
substituted by
No. 53/1994
s. 24.

S. 103(2)
amended by
No. 35/1997
s. 22(j).

S. 103(3)
amended by
No. 35/1997
s. 22(k)(i)(ii).

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s. 105

104. *Substitution of party to agreement*

If, under an allocation statement, the rights and liabilities of National Electricity under an agreement are allocated to a person nominated by the Minister in a direction under section 99—

- (a) the person becomes, on the relevant date, a party to the agreement in place of National Electricity; and
- (b) on and after the relevant date, the agreement has effect as if the person had always been a party to the agreement.

S. 104
substituted by
No. 53/1994
s. 24.

105. *National Electricity instruments*

Each National Electricity instrument relating to former National Electricity property continues to have effect according to its tenor on and after the relevant date as if a reference in the instrument to National Electricity were a reference to the transferee.

S. 105
substituted by
No. 53/1994
s. 24.

106. *Proceedings*

If, immediately before the relevant date, proceedings relating to former National Electricity property (including arbitration proceedings) to which National Electricity was a party were pending or existing in any court or tribunal, then, on and after that date, the transferee is substituted for National Electricity as a party to the proceedings and has the same rights in the proceedings as National Electricity had.

S. 106
substituted by
No. 53/1994
s. 24.

106A. *Criminal proceedings*

- (1) If National Electricity is convicted (whether before or after the commencement of section 21 of the **Electricity Industry (Further Amendment)**)

S. 106A
inserted by
No. 110/1994
s. 21.

S. 106A(1)
amended by
No. 56/1995
s. 22(a).

Act 1994) of an offence in respect of which a fine is payable, the Administrator may prepare a statement allocating liability to pay the fine to a statutory authority or company all the shares in which are held by, or on behalf of, the State or a statutory authority nominated by the Minister.

- (2) If the statement is approved by the Treasurer and the Minister—
- (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement allocates liability to pay the fine to the person specified in it; and
 - (c) the person is liable to pay the fine as if it had committed and been convicted of the offence.

S. 107
 substituted by
 No. 53/1994
 s. 24.

107. *Interests in land*

Without prejudice to the generality of this Act and despite anything to the contrary in any other Act or law, if, immediately before the relevant date, National Electricity is, in relation to former National Electricity property, the registered proprietor of an interest in land under the **Transfer of Land Act 1958**, then on and after that date—

- (a) the transferee is to be taken to be the registered proprietor of that interest in land; and
- (b) the transferee has the same rights and remedies in respect of that interest as National Electricity had.

S. 108
 substituted by
 No. 53/1994
 s. 24.

108. *Amendment of Register*

- (1) The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument and certificate of the chief

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s. 109

executive officer, must make any amendments in the Register that are necessary because of the operation of this Act.

- (1A) Despite sub-section (1), it is not necessary to produce a certificate of title in the case of a request for amendment to the Register in relation to transferred property that is an easement registered under the **Transfer of Land Act 1958**.
- (2) The Registrar-General must make all entries on the records of enrolment of any Crown grant and on any memorial relating to land that are necessary because of the operation of this Act.
- (3) If any land allocated under an allocation statement under this Part is not Crown land and is not under the operation of the **Transfer of Land Act 1958**, the transferee of the former National Electricity property, must, as soon as practicable after the land vests in accordance with the allocation statement cause a memorial of the certificate of the chief executive officer (that complies with Part 1 of the **Property Law Act 1958**) to be delivered to the office of the Registrar-General and, for the purposes of that Part, that certificate must be taken to be an instrument affecting land.

S. 108(1A)
inserted by
No. 10/1998
s. 7(2).

109. Taxes

No stamp duty or other tax is chargeable under any Act in respect of anything done under this Part or in respect of any act or transaction connected with or necessary to be done by reason of this Part, including a transaction entered into or an instrument made, executed, lodged or given, for the purpose of, or connected with the transfer of property, rights or liabilities of National Electricity.

S. 109
substituted by
No. 53/1994
s. 24.

S. 110
substituted by
No. 53/1994
s. 24.

110. *Evidence*

- (1) Documentary or other evidence that would have been admissible for or against the interests of National Electricity in relation to former National Electricity property if this Part had not been enacted, is admissible for or against the interests of the transferee.
- (2) Division 3A of Part III of the **Evidence Act 1958** continues to apply with respect to the books of account of National Electricity and to entries made in those books of account before the relevant date, whether or not they relate to former National Electricity property.
- (3) In sub-section (2), "**books of account**" has the same meaning as in Division 3A of Part III of the **Evidence Act 1958**.

S. 111
substituted by
No. 53/1994
s. 24.

111. *Validity of things done under this Part*

- (1) Nothing effected by this Part or done or suffered by National Electricity, the State, a Minister or a transferee of former National Electricity property under this Part—
 - (a) is to be regarded as placing National Electricity, the State, a Minister or the transferee in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
 - (b) is to be regarded as placing any of them in breach of or as constituting a default under any Act or other law or any provision in any agreement, arrangement or understanding including, without limiting the generality of the foregoing, any provision prohibiting, restricting or regulating the assignment or transfer of any property or the disclosure of any information; or

- (c) is to be regarded as fulfilling any condition which allows a person to exercise a right or remedy in respect of or to terminate any agreement or obligation; or
 - (d) releases any surety or other obligee wholly or in part from any obligation.
- (2) The validity of any act or transaction of National Electricity or the chief executive officer must not be called in question in any proceedings on the ground that any provision of this Act had not been complied with.

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Pt 9 Div. 4
(Heading and s. 112)
amended by No. 53/1994 s. 24, repealed by No. 10/1998 s. 8(b)
Pt 9 Div. 5
(Heading) inserted by No. 53/1994 s. 24.
S. 113 substituted by No. 53/1994 s. 24.

Division 5—Staff

113. *List of National Electricity staff*

- (1) Before the relevant date, National Electricity must prepare and submit to the Minister and Treasurer a document signed by the chief executive officer listing officers and employees of National Electricity and specifying in respect of each such officer or employee, the body by which he or she is to be regarded as having been employed by virtue of section 114 with effect from the relevant date.
- (2) The document may be amended, before or after the relevant date, by instrument signed by the chief executive officer and given to the Minister and Treasurer and the amendment is to be

regarded as having effect, or having had effect, from the relevant date.

- (3) Nothing in this section prevents a person listed in the document as an officer or employee of National Electricity from resigning or being dismissed at any time before the relevant date in accordance with the terms and conditions of his or her appointment or employment.

114. *Transfer of National Electricity staff*

- (1) A person listed as an officer or employee of National Electricity in a document under section 113 who was such an officer or employee immediately before the relevant date is to be regarded as—
- (a) having been employed by the new employer with effect from the relevant date; and
 - (b) having been so employed on the same terms and conditions as those that applied to the person, immediately before the relevant date, as an officer or employee of National Electricity; and
 - (c) having accrued an entitlement to benefits, in connection with that employment by the new employer, that is equivalent to the entitlement that the person had accrued, as an officer or employee of National Electricity, immediately before the relevant date.
- (2) The service of a transferred National Electricity employee as an employee of the new employer is to be regarded for all purposes as having been continuous with the service of the employee, immediately before the relevant date, as an officer or employee of National Electricity.
- (3) A transferred National Electricity employee is not entitled to receive any payment or other benefit by

reason only of having ceased to be an officer or employee of National Electricity because of this Act.

- (4) A certificate purporting to be signed by the chief executive officer certifying that a person named in the certificate was with effect from the relevant date employed, by virtue of this section, by a body named in the certificate is admissible in evidence in any proceedings and is conclusive proof of the matters stated in it.

115. *Future terms and conditions of transferred employees*

- (1) Nothing in section 114 prevents—
 - (a) any of the terms and conditions of employment of a transferred National Electricity employee from being altered by or under any law, award or agreement with effect from any time after the relevant date; or
 - (b) a transferred National Electricity employee from transferring to the employment of SEC, another electricity corporation, VPX, a distribution company or an SEC company at any time within 6 months after the relevant date on terms and conditions agreed to by the employee and SEC, the other electricity corporation, VPX, the distribution company or the SEC company; or
 - (c) a transferred National Electricity employee from resigning or being dismissed at any time after the relevant date in accordance with the then existing terms and conditions of his or her employment by the new employer.

S. 115 substituted by No. 53/1994 s. 24.

S. 115(1)(b) amended by No. 110/1994 s. 33(2).

s. 115A

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S. 115(2)
amended by
No. 110/1994
s. 33(2).

- (2) The service of a transferred National Electricity employee as an employee of SEC, another electricity corporation, VPX, a distribution company or an SEC company to which he or she transfers as mentioned in sub-section (1)(b) is to be regarded for all purposes as having been continuous with the service of the employee, immediately before the relevant date, as an officer or employee of National Electricity and with his or her service on or after that date as an employee of SEC, another electricity corporation, VPX, a distribution company or an SEC company.

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S. 115A
inserted by
No. 53/1994
s. 24, repealed
by No. 4/1996
s. 134(2).

Victorian Legislation and Parliamentary Documents

**PART 10—TRANSFER OF PROPERTY AND STAFF OF ESV
TO DISTRIBUTION COMPANIES**

Pt 10
(Heading and
ss 114–118)
substituted as
Pt 10
(Headings
and ss 116–
134) by No.
53/1994 s. 24.

Division 1—Definitions

Pt 10 Div. 1
(Heading)
inserted by
No. 53/1994
s. 24.

116. Definitions

S. 116
substituted by
No. 53/1994
s. 24.

(1) In this Part—

"chief executive officer" means chief executive officer of ESV;

"company transferee", in relation to former ESV property, means the distribution company or other person to which the property has been transferred under this Part;

"ESV" means Electricity Services Victoria;

"ESV instrument" means an instrument (including a legislative instrument other than this Act) subsisting immediately before the relevant date—

- (a) to which ESV was a party; or
- (b) that was given to or in favour of ESV;
or
- (c) that refers to ESV; or
- (d) under which—
 - (i) money is, or may become, payable to or by ESV; or

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- (ii) other property is to be, or may become liable to be, transferred to or by ESV;

"former ESV property" means property, rights or liabilities of ESV that, under this Part, have vested in, or become liabilities of, a distribution company or other person;

"new employer", in relation to a transferred ESV employee, means the distribution company or other person by which, by virtue of section 132, the transferred ESV employee is regarded as being employed with effect from the relevant date;

"relevant date"—

- (a) in relation to an allocation statement or property, rights or liabilities allocated under an allocation statement, means the date fixed by the Minister under sub-section (2) for the purposes of that statement;
- (b) in relation to a document referred to in section 131(1), means the date fixed by the Minister under sub-section (2) for the purposes of that document;

"transferred ESV employee" means a person who, by virtue of section 132, is regarded as being employed by a new employer with effect from the relevant date.

- (2) The Minister may, by notice published in the Government Gazette—
- (a) fix the relevant date for the purposes of an allocation statement under section 117;
- (b) fix the relevant date for the purposes of a document referred to in section 131(1).
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Division 2—Allocation of property

Pt 10 Div. 2
(Heading)
inserted by
No. 53/1994
s. 24.

117. *ESV to prepare allocation statement*

S. 117
substituted by
No. 53/1994
s. 24.

- (1) ESV must give to the Treasurer and the Minister, within the period of 3 months after the date on which the **Electricity Industry (Amendment) Act 1994** receives the Royal Assent or such longer period as the Treasurer and the Minister approve, a statement or statements approved by the Minister relating to the property, rights and liabilities of ESV as at a date specified by the Minister for the purposes of the relevant statement.
- (2) A statement under this section—
 - (a) must allocate the property, rights and liabilities of ESV shown in the statement to, or between, the distribution companies and any other person or persons nominated in writing by the Minister;
 - (b) must be signed by the chief executive officer or, after the commencement of section 8 of the **Electricity Industry (Amendment) Act 1994**, by the Administrator.
- (3) If a statement under this section is approved by the Treasurer and the Minister—
 - (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement is an allocation statement for the purposes of this Part.
- (4) The Treasurer and the Minister may at any time direct ESV or, after the commencement of section 8 of the **Electricity Industry (Amendment) Act**

S. 117(5A)
inserted by
No. 110/1994
s. 22.

S. 118
substituted by
No. 53/1994
s. 24.

1994, the Administrator to amend a statement given to them under this section as specified in the direction.

- (5) An allocation statement under this section may be amended by writing signed by the Treasurer and the Minister.
- (5A) A direction under sub-section (4) or an amendment under sub-section (5) that would affect a distribution company must not be given or made unless all the shares in the distribution company are held by or on behalf of the State or a statutory authority.
- (6) In this section, "**statement**" and "**allocation statement**" include a statement or allocation statement amended in accordance with this section.

118. *Certificate of Administrator*

- (1) A certificate signed by the Administrator certifying that property, rights or liabilities of ESV specified in the certificate have been allocated under the allocation statement to a distribution company or any other person so specified is, unless revoked under sub-section (2), conclusive evidence—
 - (a) that the property, rights or liabilities have been so allocated; and
 - (b) that the property, rights or liabilities vested in or became the property, rights or liabilities of the distribution company or other person on the relevant date.
- (2) If the Treasurer and the Minister so direct the Administrator in writing, the Administrator must revoke a certificate given under sub-section (1) by issuing another certificate or certificates in place of the first certificate.

(3) The Administrator—

- (a) must keep a register of certificates issued under this section; and
- (b) must make the register reasonably available for inspection by a distribution company or other interested person.

Division 3—Transfer of property

Pt 10 Div. 3
(Heading)
inserted by
No. 53/1994
s. 24.

119. *Property transferred to distribution company*

S. 119
substituted by
No. 53/1994
s. 24.

On the relevant date—

- (a) all property and rights of ESV, wherever located, that are allocated under an allocation statement to a distribution company or another person, vest in that company or person; and
- (b) all liabilities of ESV, wherever located, that are allocated under an allocation statement to a distribution company or another person, become liabilities of that company or person.

120. *Allocation of property etc. subject to encumbrances*

S. 120
substituted by
No. 53/1994
s. 24.

Unless an allocation statement under this Part otherwise provides, where, under this Part—

- (a) property and rights vest in; or
- (b) liabilities become liabilities of—
a distribution company or other person—
- (c) the property and rights so vested are subject to the encumbrances (if any) to which they were subject immediately before so vesting; and

- (d) the rights to which ESV was entitled in respect of those liabilities immediately before they ceased to be liabilities of ESV vest in the distribution company or other person.

121. *Value of former ESV property*

- (1) The value to a distribution company or another person of former ESV property as at the relevant date is the value shown in, or calculated in accordance with, the relevant allocation statement.
- (2) The consideration payable by a distribution company in respect of the property and rights of ESV vested in it under an allocation statement under this Part is an amount equal to the value shown in, or calculated in accordance with, the statement.
- (3) On the date notified in writing to the distribution company by the Treasurer for the purposes of this sub-section, a distribution company becomes liable to pay to the Treasurer, at the time and in the manner specified by the Treasurer, an amount equal to the sum of the considerations referred to in sub-section (2), less the sum of the value of—
 - (a) the liabilities that, before that date, have become liabilities of the distribution company under an allocation statement under this Part; and
 - (b) the financial obligations for which the distribution company is responsible as at that date in accordance with an allocation statement under section 77.

122. *Substitution of party to agreement*

If, under an allocation statement, the rights and liabilities of ESV under an agreement are

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s. 123

allocated to a distribution company or another person—

- (a) the company or person becomes, on the relevant date, a party to the agreement in place of ESV; and
- (b) on and after the relevant date, the agreement has effect as if the company or person had always been a party to the agreement.

123. *ESV instruments*

Each ESV instrument relating to former ESV property continues to have effect according to its tenor on and after the relevant date as if a reference in the instrument to ESV were a reference to the company transferee.

S. 123
inserted by
No. 53/1994
s. 24.

124. *Proceedings*

If, immediately before the relevant date, proceedings relating to former ESV property (including arbitration proceedings) to which ESV was a party were pending or existing in any court or tribunal, then, on and after that date, the company transferee is substituted for ESV as a party to the proceedings and has the same rights in the proceedings as ESV had.

S. 124
inserted by
No. 53/1994
s. 24.

124A. *Criminal proceedings*

- (1) If ESV is convicted (whether before or after the commencement of section 23 of the **Electricity Industry (Further Amendment) Act 1994**) of an offence in respect of which a fine is payable, the Administrator may prepare a statement allocating liability to pay the fine to a distribution company or a statutory authority or company all the shares in which are held by, or on behalf of, the State or a statutory authority.

S. 124A
inserted by
No. 110/1994
s. 23.
S. 124A(1)
amended by
No. 56/1995
s. 22(b).

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- (2) If the statement is approved by the Treasurer and the Minister—
- (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement allocates liability to pay the fine to the distribution company or other person specified in it; and
 - (c) the distribution company or other person is liable to pay the fine as if it had committed and been convicted of the offence.

125. *Interests in land*

Without prejudice to the generality of this Act and despite anything to the contrary in any other Act or law, if, immediately before the relevant date, ESV is, in relation to former ESV property, the registered proprietor of an interest in land under the **Transfer of Land Act 1958**, then on and after that date—

- (a) the company transferee is to be taken to be the registered proprietor of that interest in land; and
- (b) the company transferee has the same rights and remedies in respect of that interest as ESV had.

126. *Amendment of Register*

- (1) The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument and certificate of the Administrator, must make any amendments in the Register that are necessary because of the operation of this Part.
- (1A) Despite sub-section (1), it is not necessary to produce a certificate of title in the case of a request for amendment to the Register in relation

to transferred property that is an easement registered under the **Transfer of Land Act 1958**.

- (2) The Registrar-General must make all entries on the records of enrolment of any Crown grant and on any memorial relating to land that are necessary because of the operation of this Part.
- (3) If any land allocated under an allocation statement under this Part is not Crown land and is not under the operation of the **Transfer of Land Act 1958**, the company transferee concerned must, as soon as practicable after the land vests in accordance with the allocation statement, cause a memorial of the certificate of the Administrator (that complies with Part 1 of the **Property Law Act 1958**) to be delivered to the office of the Registrar-General and, for the purposes of that Part, that certificate must be taken to be an instrument affecting land.

127. Taxes

No stamp duty or other tax is chargeable under any Act in respect of anything done under this Part or in respect of any act or transaction connected with or necessary to be done by reason of this Part, including a transaction entered into or an instrument made, executed, lodged or given, for the purpose of, or connected with the transfer of property, rights or liabilities of ESV to a company transferee.

S. 127
inserted by
No. 53/1994
s. 24.

128. Evidence

- (1) Documentary or other evidence that would have been admissible for or against the interests of ESV in relation to former ESV property if this Part had not been enacted, is admissible for or against the interests of the company transferee.
- (2) Division 3A of Part III of the **Evidence Act 1958** continues to apply with respect to the books of

S. 128
inserted by
No. 53/1994
s. 24.

account of ESV and to entries made in those books of account—before the relevant date, whether or not they relate to former ESV property.

- (3) In sub-section (2), "**books of account**" has the same meaning as in Division 3A of Part III of the **Evidence Act 1958**.

129. *Validity of things done under this Part*

- (1) Nothing effected by this Part or done or suffered by ESV, the State, a Minister, a distribution company or another person under this Part—
- (a) is to be regarded as placing ESV, the State, a Minister, the company or another person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
 - (b) is to be regarded as placing any of them in breach of or as constituting a default under any Act or other law or any provision in any agreement, arrangement or understanding including, without limiting the generality of the foregoing, any provision prohibiting, restricting or regulating the assignment or transfer of any property or the disclosure of any information; or
 - (c) is to be regarded as fulfilling any condition which allows a person to exercise a right or remedy in respect of or to terminate any agreement or obligation; or
 - (d) releases any surety or other obligee wholly or in part from any obligation.
- (2) The validity of any act or transaction of ESV or the Administrator must not be called in question in any proceedings on the ground that any provision of this Act or the **State Electricity**

Commission Act 1958 had not been complied with.

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Pt 10 Div. 4
(Heading and
s. 130)
inserted by
No. 53/1994
s. 24, repealed
by No.
10/1998
s. 8(b).

Division 5—Staff

Pt 10 Div. 5
(Heading)
inserted by
No. 53/1994
s. 24.

131. *List of ESV staff*

S. 131
inserted by
No. 53/1994
s. 24.

- (1) Before the relevant date, ESV must prepare and submit to the Minister and Treasurer a document signed by the chief executive officer listing officers and employees of ESV and specifying, in respect of each such officer or employee, the distribution company or other person by which he or she is to be regarded as having been employed by virtue of section 132 with effect from the relevant date.
- (2) The document may be amended—
 - (a) before the commencement of section 8 of the **Electricity Industry (Amendment) Act 1994**, by instrument signed by the chief executive officer and given to the Minister and Treasurer;
 - (b) on or after that commencement, by instrument signed by the Administrator and given to the Minister and Treasurer—

and the amendment is to be regarded as having effect, or having had effect, from the relevant date.

S. 132
 inserted by
 No. 53/1994
 s. 24.

- (3) Nothing in this section prevents a person listed in the document as an officer or employee of ESV from resigning or being dismissed at any time before the relevant date in accordance with the terms and conditions of his or her appointment or employment.

132. *Transfer of ESV staff*

- (1) A person listed as an officer or employee of ESV in a document under section 131 who was such an officer or employee immediately before the relevant date is to be regarded as—
- (a) having been employed by the new employer with effect from the relevant date; and
 - (b) having been so employed on the same terms and conditions as those that applied to the person, immediately before the relevant date, as an officer or employee of ESV; and
 - (c) having accrued an entitlement to benefits, in connection with that employment by the new employer, that is equivalent to the entitlement that the person had accrued, as an officer or employee of ESV, immediately before the relevant date.
- (2) The service of a transferred ESV employee as an employee of the new employer is to be regarded for all purposes as having been continuous with the service of the employee, immediately before the relevant date, as an officer or employee of ESV.
- (3) A transferred ESV employee is not entitled to receive any payment or other benefit by reason only of having ceased to be an officer or employee of ESV because of this Act.
- (4) A certificate purporting to be signed by the Administrator certifying that a person named in

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s. 133

the certificate was with effect from the relevant date employed, by virtue of this section, by a distribution company or other person named in the certificate is admissible in evidence in any proceedings and is conclusive proof of the matters stated in it.

133. *Future terms and conditions of transferred employees*

S. 133
inserted by
No. 53/1994
s. 24.

(1) Nothing in section 132 prevents—

(a) any of the terms and conditions of employment of a transferred ESV employee from being altered by or under any law, award or agreement with effect from any time after the relevant date; or

(b) a transferred ESV employee from transferring to the employment of another person (whether a distribution company, SEC, an electricity corporation, VPX or an SEC company) at any time within 6 months after the relevant date on terms and conditions agreed to by the employee and that other person; or

S. 133(1)(b)
amended by
No. 110/1994
s. 33(2).

(c) a transferred ESV employee from resigning or being dismissed at any time after the relevant date in accordance with the then existing terms and conditions of his or her employment by the new employer.

(2) The service of a transferred ESV employee as an employee of another distribution company to which he or she transfers as mentioned in subsection (1)(b) is to be regarded for all purposes as having been continuous with the service of the employee, immediately before the relevant date, as an officer or employee of ESV and with his or her service on or after that date as an employee of a

distribution company or other person mentioned in sub-section (1)(b).

- (3) A transferred ESV employee is not entitled to receive any payment or other benefit by reason only of having ceased to be an employee of a distribution company or other person, being a payment or benefit in respect of a period of service as an officer or employee of ESV if he or she has received a payment or other benefit in respect of that period by reason of having ceased to be an employee of another distribution company or another person.

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Victorian Legislation and Parliamentary Documents

S. 133(3)
inserted by
No. 110/1994
s. 24.

S. 134
inserted by
No. 53/1994
s. 24, repealed
by No. 4/1996
s. 134(2).

**PART 11—TRANSFER OF MUNICIPAL ELECTRICAL
 UNDERTAKINGS TO DISTRIBUTION COMPANIES**

Pt 11
 (Heading and
 ss 119–122)
 amended by
 No. 4/1994
 s. 4(2),
 substituted as
 Pt 11
 (Headings
 and ss 135–
 153) by No.
 53/1994 s. 24.

Division 1—Definitions

Pt 11 Div. 1
 (Heading)
 inserted by
 No. 53/1994
 s. 24.

135. Definitions

S. 135
 inserted by
 No. 53/1994
 s. 24.

(1) In this Part—

"allocator" means the person who is nominated
 by the Minister for the purposes of Division
 3;

"company transferee", in relation to former
 MEU property, means the distribution
 company to which the property has been
 transferred under this Part;

"former MEU property" means MEU property
 that, under this Part, has vested in, or become
 a liability of, a distribution company;

"MEU" means an electrical undertaking
 conducted immediately before the
 commencement of section 24 of the
**Electricity Industry (Amendment) Act
 1994** by a municipal council under the
 authority of an Order in Council made under
 the **Electric Light and Power Act 1958** or a
 corresponding previous enactment;

"MEU instrument" means an instrument
 (including a legislative instrument other than

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this Act) subsisting immediately before the relevant date—

- (a) to which a municipal council was a party; or
- (b) that was given to or in favour of a municipal council; or
- (c) that refers to a municipal council; or
- (d) under which—
 - (i) money is, or may become, payable to or by a municipal council; or
 - (ii) other property is to be, or may become liable to be, transferred to or by a municipal council;

"MEU property" means the property, rights or liabilities of a municipal council in respect of a MEU to which an agreement under section 136 applies;

"new employer", in relation to a transferred MEU staff member, means the distribution company by which, by virtue of section 151, the transferred MEU staff member is regarded as being employed with effect from the relevant date;

"relevant date" means the date fixed by the Minister under sub-section (2);

"transferred MEU staff member" means a person who, by virtue of section 151, is regarded as being employed by a new employer with effect from the relevant date.

- (2) The Minister may, by notice published in the Government Gazette, fix the relevant date for the purposes of this Part.

Division 2—Agreement

Pt 11 Div. 2
(Heading)
inserted by
No. 53/1994
s. 24.

136. *Agreement with respect to transfer of property and staff of MEUs*

S. 136
inserted by
No. 53/1994
s. 24.

- (1) The Treasurer, on behalf of the Government of Victoria, may enter into an agreement in writing with one or more than one municipal council with respect to the transfer in accordance with the provisions of this Part, for the consideration expressed in the agreement, of MEU property to one or more than one distribution company.
- (2) An agreement made under sub-section (1) may be amended or varied at any time before the relevant date in accordance with the terms of that agreement.

Division 3—Allocation of property

Pt 11 Div. 3
(Heading)
inserted by
No. 53/1994
s. 24.

137. *Allocator to prepare allocation statement*

S. 137
inserted by
No. 53/1994
s. 24.

- (1) The allocator must give to the Treasurer and the Minister, within the period of 3 months after the date on which an agreement is entered into under section 136 or such longer period as the Treasurer and the Minister approve, a statement approved by the Minister relating to the MEU property as at a date specified by the Minister for the purposes of this section.
- (2) A statement under this section—
 - (a) must allocate the MEU property shown in the statement between the distribution companies;
 - (b) must be signed by the allocator.

S. 137(5A)
 inserted by
 No. 56/1995
 s. 23.

S. 138
 inserted by
 No. 53/1994
 s. 24.

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- (3) If a statement under this section is approved by the Treasurer and the Minister—
- (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement is an allocation statement for the purposes of this Part.
- (4) The Treasurer and the Minister may at any time direct the allocator to amend a statement given to them under this section as specified in the direction.
- (5) An allocation statement under this section may be amended by writing signed by the Treasurer and the Minister.
- (5A) A direction under sub-section (4) or an amendment under sub-section (5) that would affect a distribution company must not be given or made unless all the shares in the distribution company are held by, or on behalf of, the State or a statutory authority.
- (6) In this section, "**statement**" and "**allocation statement**" include a statement or allocation statement amended in accordance with this section.

138. *Certificate of Administrator*

- (1) A certificate signed by the Administrator certifying that MEU property specified in the certificate has been allocated under the allocation statement to a distribution company so specified is, unless revoked under sub-section (2), conclusive evidence—
- (a) that the MEU property has been so allocated; and
 - (b) that the property, rights or liabilities specified in the certificate vested in or
-

became the property, rights or liabilities of the distribution company on the relevant date so specified.

- (2) If the Treasurer and the Minister so direct the Administrator in writing, the Administrator must revoke a certificate given under sub-section (1) by issuing another certificate or certificates in place of the first certificate.
- (3) The Administrator—
 - (a) must keep a register of certificates issued under this section; and
 - (b) must make the register reasonably available for inspection by a distribution company or other interested person.

Division 4—Transfer of property

139. *Property transferred to distribution company*

On the relevant date—

- (a) all property and rights of a municipal council, wherever located, that are allocated under an allocation statement to a distribution company, vest in that company; and
- (b) all liabilities of a municipal council, wherever located, that are allocated under an allocation statement to a distribution company, become liabilities of that company.

140. *Allocation of property etc. subject to encumbrances*

Unless an allocation statement under this Part otherwise provides, where, under this Part—

- (a) property and rights vest in; or

Pt 11 Div. 4
(Heading)
inserted by
No. 53/1994
s. 24.

S. 139
inserted by
No. 53/1994
s. 24.

S. 140
inserted by
No. 53/1994
s. 24.

- (b) liabilities become liabilities of—
a distribution company—
- (c) the property and rights so vested are subject to the encumbrances (if any) to which they were subject immediately before so vesting;
and
- (d) the rights to which a municipal council was entitled in respect of those liabilities immediately before they ceased to be liabilities of the municipal council vest in the distribution company.

141. *Value of former MEU property*

- (1) The value to a distribution company of former MEU property as at the relevant date is the value shown in, or calculated in accordance with, the relevant allocation statement.
- (2) The consideration payable by a distribution company in respect of former MEU property vested in it under an allocation statement under this Part is an amount equal to the value shown in, or calculated in accordance with, the statement.
- (3) On the date notified in writing to the distribution company by the Treasurer for the purposes of this sub-section, a distribution company becomes liable to pay to the Treasurer, at the time and in the manner specified by the Treasurer, an amount equal to the sum of the considerations referred to in sub-section (2), less the value of the liabilities that, before that date, have become liabilities of the distribution company under an allocation statement under this Part.

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s. 143

142. *Substitution of party to agreement*

If, under an allocation statement, the rights and liabilities of a municipal council under an agreement are allocated to a distribution company—

- (a) the company becomes, on the relevant date, a party to the agreement in place of the municipal council; and
- (b) on and after the relevant date, the agreement has effect as if the company had always been a party to the agreement.

S. 142
inserted by
No. 53/1994
s. 24.

143. *MEU instruments*

Each MEU instrument relating to former MEU property continues to have effect according to its tenor on and after the relevant date as if a reference in the instrument to the municipal council were a reference to the company transferee.

S. 143
inserted by
No. 53/1994
s. 24.

143A. *Proceedings*

If, immediately before the relevant date, proceedings relating to property transferred to a company transferee under an allocation statement under this Part (including arbitration proceedings) to which a municipal council was a party were pending or existing in any court or tribunal, then, on and after that date, the company transferee is substituted for the municipal council as a party to the proceedings and has the same rights in the proceedings as the municipal council had.

S. 143A
inserted by
No. 56/1995
s. 24.

144. *Interests in land*

Without prejudice to the generality of this Act and despite anything to the contrary in any other Act or law, if, immediately before the relevant date, a municipal council is, in relation to former MEU

S. 144
inserted by
No. 53/1994
s. 24.

property, the registered proprietor of an interest in land under the **Transfer of Land Act 1958**, then on and after that date—

- (a) the company transferee is to be taken to be the registered proprietor of that interest in land; and
- (b) the company transferee has the same rights and remedies in respect of that interest as the municipal council had.

145. Amendment of Register

- (1) The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument and certificate of the Administrator, must make any amendments in the Register that are necessary because of the operation of this Part.
- (2) The Registrar-General must make all entries on the records of enrolment of any Crown grant and on any memorial relating to land that are necessary because of the operation of this Part.
- (3) If any land allocated under an allocation statement under this Part is not Crown land and is not under the operation of the **Transfer of Land Act 1958**, the distribution company concerned must, as soon as practicable after the land vests in accordance with the allocation statement, cause a memorial of the certificate of the Administrator (that complies with Part 1 of the **Property Law Act 1958**) to be delivered to the office of the Registrar-General and, for the purposes of that Part, that certificate must be taken to be an instrument affecting land.

146. Taxes

No stamp duty or other tax is chargeable under any Act in respect of anything done under this Part or in respect of any act or transaction connected

with or necessary to be done by reason of this Part, including a transaction entered into or an instrument made, executed, lodged or given, for the purpose of, or connected with the transfer of property, rights or liabilities of a municipal council to a distribution company.

147. Evidence

- (1) Documentary or other evidence that would have been admissible for or against the interests of a municipal council in relation to former MEU property if this Part had not been enacted, is admissible for or against the interests of the company transferee.
- (2) Division 3A of Part III of the **Evidence Act 1958** continues to apply with respect to the books of account of a municipal council and to entries made in those books of account before the relevant date, whether or not they relate to former MEU property.
- (3) In sub-section (2), "**books of account**" has the same meaning as in Division 3A of Part III of the **Evidence Act 1958**.

S. 147
inserted by
No. 53/1994
s. 24.

148. Validity of things done under this Part

- (1) Nothing effected by this Part or done or suffered by a municipal council, the State, a Minister or a distribution company under this Part—
 - (a) is to be regarded as placing the municipal council, the State, a Minister or the company in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
 - (b) is to be regarded as placing any of them in breach of or as constituting a default under any Act or other law or any provision in any agreement, arrangement or understanding

S. 148
inserted by
No. 53/1994
s. 24.

s. 150

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including, without limiting the generality of the foregoing, any provision prohibiting, restricting or regulating the assignment or transfer of any property or the disclosure of any information; or

- (c) is to be regarded as fulfilling any condition which allows a person to exercise a right or remedy in respect of or to terminate any agreement or obligation; or
 - (d) releases any surety or other obligee wholly or in part from any obligation.
- (2) The validity of any act or transaction of a municipal council, the allocator or the Administrator must not be called in question in any proceedings on the ground that any provision of this Act, the **Electric Light and Power Act 1958**, the **State Electricity Commission Act 1958** or the **Local Government Act 1989** had not been complied with.

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Pt 11 Div. 5
(Heading and s. 149)
inserted by No. 53/1994 s. 24, repealed by No. 10/1998 s. 8(p)
Pt 11 Div. 6
(Heading)
inserted by No. 53/1994 s. 24.
S. 150
inserted by No. 53/1994 s. 24.

Division 6—Staff

150. *List of MEU staff*

- (1) Before the relevant date, the allocator must prepare and submit to the Minister and Treasurer a document signed by the allocator listing all the members of Council staff of a municipal council who have accepted an offer of employment made by a distribution company in accordance with an

agreement made under section 136(1) and specifying, in respect of each such member of Council staff, the distribution company by which he or she is to be regarded as having been employed by virtue of section 151 with effect from the relevant date or such later date as is specified.

- (2) The document may be amended, before or after the relevant date, by instrument signed by the allocator and given to the Minister and Treasurer and the amendment is to be regarded as having effect, or having had effect, from the relevant date.
- (3) Nothing in this section prevents a person listed in the document as a member of Council staff from resigning or being dismissed at any time before the relevant date in accordance with the terms and conditions of his or her employment.

151. *Transfer of MEU staff*

- (1) A person listed as a member of Council staff in a document under section 150 who was a member of Council staff immediately before the relevant date is to be regarded as—
 - (a) having had his or her employment transferred to the new employer with effect from the relevant date by force of this section and having been employed by that employer on and from the relevant date; and
 - (b) having been so employed on the terms and conditions agreed to by him or her and the new employer; and
 - (c) having accrued an entitlement to benefits, in connection with that employment by the new employer, that is equivalent to the entitlement that the person had accrued, as a

S. 151
inserted by
No. 53/1994
s. 24.

Electricity Industry Act 1993
Act No. 130/1993

member of Council staff, immediately before the relevant date.

- (2) The service of a transferred MEU staff member as an employee of the new employer is to be regarded for all purposes as having been continuous with the service of the employee, immediately before the relevant date, as a member of Council staff.
- (3) A transferred MEU staff member is not entitled to receive any payment or other benefit by reason only of having ceased to be a member of Council staff because of this Act.
- (4) A certificate purporting to be signed by the allocator certifying that a person named in the certificate was with effect from the relevant date employed, by virtue of this section, by a distribution company named in the certificate is admissible in evidence in any proceedings and is conclusive proof of the matters stated in it.

152. *Future terms and conditions of transferred MEU staff members*

- (1) Nothing in section 151 prevents—
 - (a) any of the terms and conditions of employment of a transferred MEU staff member from being altered by or under any law, award or agreement with effect from any time after the relevant date; or
 - (b) a transferred MEU staff member from transferring to the employment of another distribution company at any time within 6 months after the relevant date on terms and conditions agreed to by the employee and that other distribution company; or
 - (c) a transferred MEU staff member from resigning or being dismissed at any time after

S. 152
inserted by
No. 53/1994
s. 24.

Electricity Industry Act 1993
Act No. 130/1993

s. 152

the relevant date in accordance with the then existing terms and conditions of his or her employment by the new employer.

- (2) The service of a transferred MEU staff member as an employee of another distribution company to which he or she transfers as mentioned in subsection (1)(b) is to be regarded for all purposes as having been continuous with the service of the employee, immediately before the relevant date, as a member of Council staff and with his or her service on or after that date as an employee of a distribution company.

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S. 153
inserted by
No. 53/1994
s. 24, repealed
by No. 4/1996
s. 134(2).

**PART 11A—TRANSFER OF PROPERTY AND STAFF OF
GENERATION VICTORIA**

Division 1—Definitions

153A. Definitions

(1) In this Part—

"chief executive officer" means chief executive officer of GV;

"company transferee", in relation to former GV property, means the generation company, SEC or other person to which the property has been transferred under this Part;

"GV" means Generation Victoria;

"GV instrument" means an instrument (including a legislative instrument other than this Act) subsisting immediately before the relevant date—

- (a) to which GV was a party; or
- (b) that was given to or in favour of GV; or
- (c) that refers to GV; or
- (d) under which—
 - (i) money is, or may become, payable to or by GV; or
 - (ii) other property is to be, or may become liable to be, transferred to or by GV;

"former GV property" means property, rights or liabilities of GV that, under this Part, have vested in, or become liabilities of, a generation company, SEC or another person;

"new employer", in relation to a transferred GV employee, means the generation company, SEC or other person by which, by virtue of section 153R, the transferred GV employee is regarded as being employed with effect from the relevant date;

"relevant date"—

- (a) in relation to an allocation statement or property, rights or liabilities allocated under an allocation statement, means the date fixed by the Minister under sub-section (2) for the purposes of that statement;
- (b) in relation to a document referred to in section 153Q(1), means a date fixed by the Minister under sub-section (2) for the purposes of that document;

"transferred GV employee" means a person who, by virtue of section 153R, is regarded as being employed by a new employer with effect from the relevant date.

- (2) The Minister may, by notice published in the Government Gazette—
 - (a) fix the relevant date for the purposes of an allocation statement under section 153B;
 - (b) fix the relevant date for the purposes of a document referred to in section 153Q(1).

Division 2—Allocation of property

153B. *GV to prepare allocation statement*

- (1) GV must give to the Treasurer and the Minister, within the period of 3 months after the date on which the **Electricity Industry (Further Amendment) Act 1994** receives the Royal Assent

S. 153B
 inserted by
 No. 110/1994
 s. 25.

Electricity Industry Act 1993
Act No. 130/1993

or such longer period as the Treasurer and the Minister approve, a statement or statements approved by the Minister relating to the property, rights and liabilities of GV as at a date specified by the Minister for the purposes of the relevant statement.

- (2) A statement under this section—
- (a) must allocate the property, rights and liabilities of GV shown in the statement to, or between, the generation companies, SEC and any other person or persons nominated in writing by the Minister;
 - (b) must be signed by the chief executive officer or, after the commencement of section 5 of the **Electricity Industry (Further Amendment) Act 1994**, by the Administrator.
- (3) If a statement under this section is approved by the Treasurer and the Minister—
- (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement is an allocation statement for the purposes of this Part.
- (4) The Treasurer and the Minister may at any time direct GV or, after the commencement of section 5 of the **Electricity Industry (Further Amendment) Act 1994**, the Administrator to amend a statement given to them under this section as specified in the direction.
- (5) An allocation statement under this section may be amended by writing signed by the Treasurer and the Minister.
- (6) A direction under sub-section (4) or an amendment under sub-section (5) that would
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affect a generation company must not be given or made unless all the shares in the generation company are held by or on behalf of the State or a statutory authority.

- (7) In this section, "**statement**" and "**allocation statement**" include a statement or allocation statement amended in accordance with this section.

153C. Certificate of Administrator

S. 153C
 inserted by
 No. 110/1994
 s. 25.

- (1) A certificate signed by the Administrator certifying that property, rights or liabilities of GV specified in the certificate have been allocated under the allocation statement to a generation company, SEC or any other person so specified is, unless revoked under sub-section (2), conclusive evidence—
- (a) that the property, rights or liabilities have been so allocated; and
 - (b) that the property, rights or liabilities vested in or became the property, rights or liabilities of the generation company, SEC or other person on the relevant date.
- (2) If the Treasurer and the Minister so direct the Administrator in writing, the Administrator must revoke a certificate given under sub-section (1) by issuing another certificate or certificates in place of the first certificate.
- (3) The Administrator—
- (a) must keep a register of certificates issued under this section; and
 - (b) must make the register reasonably available for inspection by a generation company or other interested person.

Division 3—Transfer of property

153D. Property transferred to generation company

On the relevant date—

- (a) all property and rights of GV, wherever located, that are allocated under an allocation statement to a generation company, SEC or another person, or any 2 or more of the generation companies, SEC or other persons, vest in that company, SEC or person or any 2 or more of them; and
- (b) all liabilities of GV, wherever located, that are allocated under an allocation statement to a generation company, SEC or another person, or to any 2 or more of the generation companies, SEC or other persons, become liabilities of that company, SEC or person or any 2 or more of them.

153E. Allocation of property etc. subject to encumbrances

Unless an allocation statement under this Part otherwise provides, where, under this Part—

- (a) property and rights vest in; or
- (b) liabilities become liabilities of—

a generation company, SEC or other person or any 2 or more of the generation companies, SEC and other persons—

- (c) the property and rights so vested are subject to the encumbrances (if any) to which they were subject immediately before so vesting; and
- (d) the rights to which GV was entitled in respect of those liabilities immediately before they ceased to be liabilities of GV

S. 153D
inserted by
No. 110/1994
s. 25.

S. 153E
inserted by
No. 110/1994
s. 25.

vest in the generation company, SEC or other person or any 2 or more of them.

153F. *Value of former GV property*

S. 153F
inserted by
No. 110/1994
s. 25.

- (1) The value to a generation company, SEC or another person of former GV property as at the relevant date is the value shown in, or calculated in accordance with, the relevant allocation statement.
- (2) The consideration payable by a generation company in respect of the property and rights of GV vested in it under an allocation statement under this Part is an amount equal to the value shown in, or calculated in accordance with, the statement.
- (3) On the date notified in writing to the generation company by the Treasurer for the purposes of this sub-section, a generation company becomes liable to pay to the Treasurer, at the time and in the manner specified by the Treasurer, an amount equal to the sum of the considerations referred to in sub-section (2), less the sum of the value of—
 - (a) the liabilities that, before that date, have become liabilities of the generation company under an allocation statement under this Part; and
 - (b) the financial obligations for which the generation company is responsible as at that date in accordance with an allocation statement under section 77.

153G. *Substitution of party to agreement*

S. 153G
inserted by
No. 110/1994
s. 25.

If, under an allocation statement, the rights and liabilities of GV under an agreement are allocated to a generation company, SEC or another person—

- (a) the company, SEC or person becomes, on the relevant date, a party to the agreement in place of GV; and
- (b) on and after the relevant date, the agreement has effect as if the company, SEC or person had always been a party to the agreement.

153H. Criminal proceedings

- (1) If GV is convicted (whether before or after the commencement of section 25 of the **Electricity Industry (Further Amendment) Act 1994**) of an offence in respect of which a fine is payable, the Administrator may prepare a statement allocating liability to pay the fine to a public generation company.
- (2) If the statement is approved by the Treasurer and the Minister—
 - (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement allocates liability to pay the fine to the public generation company specified in it; and
 - (c) the public generation company is liable to pay the fine as if it had committed and been convicted of the offence.

153I. GV instruments

Each GV instrument relating to former GV property continues to have effect according to its tenor on and after the relevant date as if a reference in the instrument to GV were a reference to the company transferee.

Electricity Industry Act 1993
Act No. 130/1993

s. 153J

153J. Proceedings

If, immediately before the relevant date, proceedings relating to former GV property (including arbitration proceedings) to which GV was a party were pending or existing in any court or tribunal, then, on and after that date, the company transferee is substituted for GV as a party to the proceedings and has the same rights in the proceedings as GV had.

S. 153J
inserted by
No. 110/1994
s. 25.

153K. Interests in land

Without prejudice to the generality of this Act and despite anything to the contrary in any other Act or law, if, immediately before the relevant date, GV is, in relation to former GV property, the registered proprietor of an interest in land under the **Transfer of Land Act 1958**, then on and after that date—

S. 153K
inserted by
No. 110/1994
s. 25.

- (a) the company transferee is to be taken to be the registered proprietor of that interest in land; and
- (b) the company transferee has the same rights and remedies in respect of that interest as GV had.

153L. Amendment of Register

- (1) The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument and certificate of the Administrator, must make any amendments in the Register that are necessary because of the operation of this Part.

S. 153L
inserted by
No. 110/1994
s. 25.

- (1A) Despite sub-section (1), it is not necessary to produce a certificate of title in the case of a request for amendment to the Register in relation to transferred property that is an easement registered under the **Transfer of Land Act 1958**.

S. 153L(1A)
inserted by
No. 10/1998
s. 7(4).

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- (2) The Registrar-General must make all entries on the records of enrolment of any Crown grant and on any memorial relating to land that are necessary because of the operation of this Part.
 - (3) If any land allocated under an allocation statement under this Part is not Crown land and is not under the operation of the **Transfer of Land Act 1958**, the company transferee concerned must, as soon as practicable after the land vests in accordance with the allocation statement, cause a memorial of the certificate of the Administrator (that complies with Part 1 of the **Property Law Act 1958**) to be delivered to the office of the Registrar-General and, for the purposes of that Part, that certificate must be taken to be an instrument affecting land.

S. 153M
inserted by
No. 110/1994
s. 25.

153M. Taxes

No stamp duty or other tax is chargeable under any Act in respect of anything done under this Part or in respect of any act or transaction connected with or necessary to be done by reason of this Part, including a transaction entered into or an instrument made, executed, lodged or given, for the purpose of, or connected with the transfer of property, rights or liabilities of GV to a company transferee.

S. 153N
inserted by
No. 110/1994
s. 25.

153N. Evidence

- (1) Documentary or other evidence that would have been admissible for or against the interests of GV in relation to former GV property if this Part had not been enacted, is admissible for or against the interests of the company transferee.
- (2) Division 3A of Part III of the **Evidence Act 1958** continues to apply with respect to the books of account of GV and to entries made in those books

of account—before the relevant date, whether or not they relate to former GV property.

- (3) In sub-section (2), "**books of account**" has the same meaning as in Division 3A of Part III of the **Evidence Act 1958**.

153O. *Validity of things done under this Part*

S. 153O
inserted by
No. 110/1994
s. 25.

- (1) Nothing effected by this Part or done or suffered under this Part—
- (a) is to be regarded as placing GV, the State, a Minister, a generation company, SEC or another person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
 - (b) is to be regarded as placing any of them in breach of or as constituting a default under any Act or other law or any provision in any agreement, arrangement or understanding including, without limiting the generality of the foregoing, any provision prohibiting, restricting or regulating the assignment or transfer of any property or the disclosure of any information; or
 - (c) is to be regarded as fulfilling any condition which allows a person to exercise a right or remedy in respect of or to terminate any agreement or obligation; or
 - (d) releases any surety or other obligee wholly or in part from any obligation.
- (2) The validity of any act or transaction of GV or the Administrator must not be called in question in any proceedings on the ground that any provision of this Act or the **State Electricity Commission Act 1958** had not been complied with.

Electricity Industry Act 1993
Act No. 130/1993

s. 153Q

Pt 11A Div. 4
(Heading and
s. 153P)
inserted by
No. 110/1994
s. 25, repealed
by No.
10/1998
s. 8(b).

S. 153Q
inserted by
No. 110/1994
s. 25.

Victorian Legislation and Parliamentary Documents

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Division 5—Staff

153Q. *List of GV staff*

- (1) Before the relevant date, GV must prepare and submit to the Minister and Treasurer a document signed by the chief executive officer listing officers and employees of GV and specifying, in respect of each such officer or employee, the generation company, SEC or other person by which he or she is to be regarded as having been employed by virtue of section 153R with effect from the relevant date.
- (2) The document may be amended—
 - (a) before the commencement of section 5 of the **Electricity Industry (Further Amendment) Act 1994**, by instrument signed by the chief executive officer and given to the Minister and Treasurer;
 - (b) on or after that commencement, by instrument signed by the Administrator and given to the Minister and Treasurer—and the amendment is to be regarded as having effect, or having had effect, from the relevant date.
- (3) Nothing in this section prevents a person listed in the document as an officer or employee of GV from resigning or being dismissed at any time before the relevant date in accordance with the terms and conditions of his or her appointment or employment.

Electricity Industry Act 1993
Act No. 130/1993

s. 153R

153R. *Transfer of GV staff*

S. 153R
inserted by
No. 110/1994
s. 25.

- (1) A person listed as an officer or employee of GV in a document under section 153Q who was such an officer or employee immediately before the relevant date is to be regarded as—
 - (a) having been employed by the new employer with effect from the relevant date; and
 - (b) having been so employed on the same terms and conditions as those that applied to the person, immediately before the relevant date, as an officer or employee of GV; and
 - (c) having accrued an entitlement to benefits, in connection with that employment by the new employer, that is equivalent to the entitlement that the person had accrued, as an officer or employee of GV, immediately before the relevant date.
- (2) The service of a transferred GV employee as an employee of the new employer is to be regarded for all purposes as having been continuous with the service of the employee, immediately before the relevant date, as an officer or employee of GV.
- (3) A transferred GV employee is not entitled to receive any payment or other benefit by reason only of having ceased to be an officer or employee of GV because of this Act.
- (4) A certificate purporting to be signed by the Administrator certifying that a person named in the certificate was with effect from the relevant date employed, by virtue of this section, by a generation company, SEC or other person named in the certificate is admissible in evidence in any proceedings and is conclusive proof of the matters stated in it.

s. 153S
inserted by
No. 110/1994
s. 25.

153S. *Future terms and conditions of transferred employees*

- (1) Nothing in section 153R prevents—
 - (a) any of the terms and conditions of employment of a transferred GV employee from being altered by or under any law, award or agreement with effect from any time after the relevant date; or
 - (b) a transferred GV employee from transferring to the employment of another person (whether a generation company, a distribution company, SEC, an electricity corporation, VPX or an SEC company) at any time within 6 months after the relevant date on terms and conditions agreed to by the employee and that other person; or
 - (c) a transferred GV employee from resigning or being dismissed at any time after the relevant date in accordance with the then existing terms and conditions of his or her employment by the new employer.
- (2) The service of a transferred GV employee as an employee of another person to which he or she transfers as mentioned in sub-section (1)(b) is to be regarded for all purposes as having been continuous with the service of the employee, immediately before the relevant date, as an officer or employee of GV and with his or her service on or after that date as an employee of the other person mentioned in sub-section (1)(b).
- (3) A transferred GV employee is not entitled to receive any payment or other benefit by reason only of having ceased to be an employee of a generation company or other person, being a payment or benefit in respect of a period of service as an officer or employee of GV, if he or

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s. 153S

she has received a payment or other benefit in
respect of that period by reason of having ceased
to be an employee of another generation company
or other person.

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S. 153T
inserted by
No. 110/1994
s. 25, repealed
by No. 4/1996
s. 134(2).

**PART 11AB—TRANSFER OF CERTAIN PROPERTY AND
STAFF OF LOY YANG POWER LTD**

Division 1—Definitions and application

153TA. *Definitions and application*

(1) In this Part—

"chief executive officer" means chief executive officer of LYP;

"former LYP property" means property, rights or liabilities of LYP that, under this Part, have vested in, or become liabilities of another person;

"LYP" means Loy Yang Power Limited;

"LYP instrument" means an instrument (including a legislative instrument other than this Act) subsisting immediately before the relevant date—

(a) to which LYP was a party; or

(b) that was given to or in favour of LYP;
or

(c) that refers to LYP; or

(d) under which—

(i) money is, or may become, payable to or by LYP; or

(ii) other property is to be, or may become liable to be, transferred to or by LYP;

"LYP transferee", in relation to former LYP property, means the person to which the property has been transferred under this Part;

"new employer", in relation to a transferred LYP employee, means the person by which, by virtue of section 153TN, the transferred LYP employee is regarded as being employed with effect from the relevant date;

"relevant date"—

(a) in relation to an allocation statement or property, rights or liabilities allocated under an allocation statement, means the date fixed by the Minister under sub-section (2) for the purposes of that statement;

(b) in relation to a document referred to in section 153TM(1), means a date fixed by the Minister under sub-section (2) for the purposes of that document;

"transferred LYP employee" means a person who, by virtue of section 153TN, is regarded as being employed by a new employer with effect from the relevant date.

- (2) The Minister may, by notice published in the Government Gazette—
- (a) fix the relevant date for the purposes of an allocation statement under section 153TB;
 - (b) fix the relevant date for the purposes of a document referred to in section 153TM(1).
- (3) This Part does not apply unless LYP is a company all the shares in which are held by, or on behalf of, the State or a statutory authority.

Division 2—Allocation of property

153TB. LYP to prepare allocation statement

- (1) LYP must give to the Treasurer and the Minister, within the period of 3 months after the date on which the **Electricity Industry (Loy Yang B) Act 1997** receives the Royal Assent or such longer period as the Treasurer and the Minister approve, a statement or statements approved by the Minister relating to the property, rights and liabilities of LYP as at a date specified by the Minister for the purposes of the relevant statement.
- (2) A statement under this section—
 - (a) must allocate the property, rights and liabilities of LYP shown in the statement to, or between, the person or persons nominated in writing by the Minister;
 - (b) must be signed by the chief executive officer.
- (3) If a statement under this section is approved by the Treasurer and the Minister—
 - (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement is an allocation statement for the purposes of this Part.
- (4) The Treasurer and the Minister may at any time direct LYP to amend a statement given to them under this section as specified in the direction.
- (5) An allocation statement under this section may be amended by writing signed by the Treasurer and the Minister.
- (6) A direction under sub-section (4) or an amendment under sub-section (5) that would affect a person or persons nominated by the

Minister under sub-section (1) must not be given or made unless that person or those persons are, or are wholly owned by, the State or a statutory authority or have consented in writing to the direction or amendment.

- (7) In this section, "**statement**" and "**allocation statement**" include a statement or allocation statement amended in accordance with this section.

153TC. Certificate of Administrator

S. 153TC
inserted by
No. 14/1997
s. 16.

- (1) A certificate signed by the Administrator certifying that property, rights or liabilities of LYP specified in the certificate have been allocated under the allocation statement to a person so specified is, unless revoked under sub-section (2), conclusive evidence—
- (a) that the property, rights or liabilities have been so allocated; and
 - (b) that the property, rights or liabilities vested in or became the property, rights or liabilities of the person on the relevant date.
- (2) If the Treasurer and the Minister so direct the Administrator in writing, the Administrator must revoke a certificate given under sub-section (1) by issuing another certificate or certificates in place of the first certificate.
- (3) The Administrator—
- (a) must keep a register of certificates issued under this section; and
 - (b) must make the register reasonably available for inspection by an interested person.

Division 3—Transfer of property

S. 153TD
inserted by
No. 14/1997
s. 16.

153TD. Property transferred

On the relevant date—

- (a) all property and rights of LYP, wherever located, that are allocated under an allocation statement to a person, or any 2 or more persons, vest in that person or persons; and
- (b) all liabilities of LYP, wherever located, that are allocated under an allocation statement to a person, or to any 2 or more persons, become liabilities of that person or persons.

S. 153TE
inserted by
No. 14/1997
s. 16.

153TE. Allocation of property etc. subject to encumbrances

Unless an allocation statement under this Part otherwise provides, where, under this Part—

- (a) property and rights vest in; or
- (b) liabilities become liabilities of—
a person or 2 or more persons—
- (c) the property and rights so vested are subject to the encumbrances (if any) to which they were subject immediately before so vesting; and
- (d) the rights to which LYP was entitled in respect of those liabilities immediately before they ceased to be liabilities of LYP vest in the person or persons.

S. 153TF
inserted by
No. 14/1997
s. 16.

153TF. Substitution of party to agreement

If, under an allocation statement, the rights and liabilities of LYP under an agreement are allocated to a person—

- (a) the person becomes, on the relevant date, a party to the agreement in place of LYP; and

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Act No. 130/1993

s. 153TG

- (b) on and after the relevant date, the agreement has effect as if the person had always been a party to the agreement.

153TG. *LYP instruments*

Each LYP instrument relating to former LYP property continues to have effect according to its tenor on and after the relevant date as if a reference in the instrument to LYP were a reference to the LYP transferee.

S. 153TG
inserted by
No. 14/1997
s. 16.

153TH. *Proceedings*

If, immediately before the relevant date, proceedings relating to former LYP property (including arbitration proceedings) to which LYP was a party were pending or existing in any court or tribunal, then, on and after that date, the LYP transferee is substituted for LYP as a party to the proceedings and has the same rights in the proceedings as LYP had.

S. 153TH
inserted by
No. 14/1997
s. 16.

153TI. *Interests in land*

Without prejudice to the generality of this Part and despite anything to the contrary in any other Act or law, if, immediately before the relevant date, LYP is, in relation to former LYP property, the registered proprietor of an interest in land under the **Transfer of Land Act 1958**, then on and after that date—

S. 153TI
inserted by
No. 14/1997
s. 16.

- (a) the LYP transferee is to be taken to be the registered proprietor of that interest in land; and
- (b) the LYP transferee has the same rights and remedies in respect of that interest as LYP has.

s. 153TJ

S. 153TJ
inserted by
No. 14/1997
s. 16.

153TJ. Amendment of Register

- (1) The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument and certificate of the Administrator, must make any amendments in the Register that are necessary because of the operation of this Part.
- (1A) Despite sub-section (1), it is not necessary to produce a certificate of title in the case of a request for amendment to the Register in relation to transferred property that is an easement registered under the **Transfer of Land Act 1958**.
- (2) The Registrar-General must make all entries on the records of enrolment of any Crown grant and on any memorial relating to land that are necessary because of the operation of this Part.
- (3) If any land allocated under an allocation statement under this Part is not Crown land and is not under the operation of the **Transfer of Land Act 1958**, the LYP transferee concerned must, as soon as practicable after the land vests in accordance with the allocation statement, cause a memorial of the certificate of the Administrator (that complies with Part I of the **Property Law Act 1958**) to be delivered to the office of the Registrar-General and, for the purposes of that Part, that certificate must be taken to be an instrument affecting land.

S. 153TJ(1A)
inserted by
No. 10/1998
s. 7(5).

153TK. Evidence

- (1) Documentary or other evidence that would have been admissible for or against the interests of LYP in relation to former LYP property if this Part had not been enacted, is admissible for or against the interests of the LYP transferee.
- (2) Division 3A of Part III of the **Evidence Act 1958** continues to apply with respect to the books of

S. 153TK
inserted by
No. 14/1997
s. 16.

account of LYP and to entries made in those books of account before the relevant date, whether or not they relate to former LYP property.

- (3) In sub-section (2), "**books of account**" has the same meaning as in Division 3A of Part III of the **Evidence Act 1958**.

153TL. *Validity of things done under this Part*

S. 153TL
 inserted by
 No. 14/1997
 s. 16.

- (1) Nothing effected by this Part or done or suffered under this Part or the cessation of carrying on business by LYP—
- (a) is to be regarded as placing LYP, the State, a Minister or another person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
 - (b) is to be regarded as placing any of them in breach of or as constituting a default under any Act or other law or any provision in any agreement, arrangement or understanding including, without limiting the generality of the foregoing, any provision prohibiting, restricting or regulating the assignment or transfer of any property or the disclosure of any information; or
 - (c) is to be regarded as fulfilling any condition which allows a person to exercise a right or remedy in respect of or to terminate any agreement or obligation; or
 - (d) releases any surety or other obligee wholly or in part from any obligation.
- (2) The validity of any act or transaction of LYP must not be called in question in any proceedings on the ground that any provision of this Act had not been complied with.

Division 4—Staff

S. 153TM
inserted by
No. 14/1997
s. 16.

153TM. *List of LYP staff*

- (1) Before the relevant date, LYP must prepare and submit to the Minister and Treasurer a document signed by the chief executive officer listing officers and employees of LYP and specifying, in respect of each such officer or employee, the person by which he or she is to be regarded as having been employed by virtue of section 153TN with effect from the relevant date.
- (2) The document may be amended by instrument signed by the chief executive officer and given to the Minister and Treasurer and the amendment is to be regarded as having effect, or having had effect, from the relevant date.
- (3) Nothing in this section prevents a person listed in the document as an officer or employee of LYP from resigning or being dismissed at any time before the relevant date in accordance with the terms and conditions of his or her appointment or employment.

S. 153TN
inserted by
No. 14/1997
s. 16.

153TN. *Transfer of LYP staff*

- (1) A person listed as an officer or employee of LYP in a document under section 153TM who was such an officer or employee immediately before the relevant date is to be regarded as—
 - (a) having been employed by the new employer with effect from the relevant date; and
 - (b) having been so employed on the same terms and conditions as those that applied to the person, immediately before the relevant date, as an officer or employee of LYP; and
 - (c) having accrued an entitlement to benefits, in connection with that employment by the new

employer, that is equivalent to the entitlement that the person had accrued, as an officer or employee of LYP, immediately before the relevant date.

- (2) The service of a transferred LYP employee as an employee of the new employer is to be regarded for all purposes as having been continuous with the service of the employee, immediately before the relevant date, as an officer or employee of LYP.
- (3) A transferred LYP employee is not entitled to receive any payment or other benefit by reason only of having ceased to be an officer or employee of LYP because of this Act.
- (4) A certificate purporting to be signed by the Administrator certifying that a person named in the certificate was with effect from the relevant date employed, by virtue of this section, by a person named in the certificate is admissible in evidence in any proceedings and is conclusive proof of the matters stated in it.

153TO. *Future terms and conditions of transferred employees*

Nothing in section 153TN prevents—

- (a) any of the terms and conditions of employment of a transferred LYP employee from being altered by or under any law, award or agreement with effect from any time after the relevant date; or
- (b) a transferred LYP employee from resigning or being dismissed at any time after the relevant date in accordance with the then existing terms and conditions of his or her employment by the new employer.

**S. 153TO
inserted by
No. 14/1997
s. 16.**

S. 153TP
inserted by
No. 14/1997
s. 16.

153TP. *Superannuation*

Without limiting section 84(5), SEC may, at any time before or after the relevant date, amend the rules referred to in section 84(1) to recognise for the purposes of membership of the Victorian Electricity Industry Superannuation Fund the continuity of service that must be taken to exist by virtue of section 153TN(2).

**PART 11AC—TRANSFER OF CERTAIN PROPERTY AND
STAFF OF NOMINATED TRANSFEROR COMPANIES**

Pt 11AC
(Headings
and
ss 153TQ–
153TZG)
inserted by
No. 35/1997
s. 25.

Division 1—Definitions and applications

153TQ. Definitions

S. 153TQ
inserted by
No. 35/1997
s. 25.

(1) In this Part—

"former TCO property" means property, rights or liabilities of a TCO that, under this Part, have vested in, or become liabilities of another person;

"new employer", in relation to a transferred TCO employee, means the person by which, by virtue of section 153TZE, the transferred TCO employee is regarded as being employed with effect from the relevant date;

"relevant date"—

- (a) in relation to an allocation statement or property, rights or liabilities allocated under an allocation statement, means the date fixed by the Minister under sub-section (2) for the purposes of that statement;
- (b) in relation to a document referred to in section 153TZD(1), means a date fixed by the Minister under sub-section (2) for the purposes of that document;

"TCO" means a transferor company that is nominated by the Minister under section 153TR;

"TCO instrument" means an instrument (including a legislative instrument other than

this Act) subsisting immediately before the relevant date in relation to a TCO—

- (a) to which the TCO was a party; or
- (b) that was given to or in favour of the TCO; or
- (c) that refers to the TCO; or
- (d) under which—
 - (i) money is, or may become, payable to or by the TCO; or
 - (ii) other property is to be, or may become liable to be, transferred to or by the TCO;

"TCO transferee", in relation to former TCO property, means the person to which the property has been transferred under this Part;

"transferred TCO employee" means a person who, by virtue of section 153TZE, is regarded as being employed by a new employer with effect from the relevant date;

"transferor company" means VPX or a public transmission company or a public generation company.

- (2) The Minister may, by notice published in the Government Gazette—
 - (a) fix a relevant date for the purposes of an allocation statement under section 153TS;
 - (b) fix a relevant date for the purposes of a document referred to in section 153TZD(1).

S. 153TQ(1)
def. of
"transferor
company"
amended by
No. 55/1997
s. 9(1).

Electricity Industry Act 1993
Act No. 130/1993

s. 153TR

153TR. *Nomination of transferor company*

- (1) If the Treasurer, on behalf of the State, enters into an agreement for the sale or transfer of property, rights and liabilities of a transferor company, the Treasurer may nominate the transferor company for the purpose of this Part.
- (2) The Treasurer may nominate VPX as a transferor company for the purposes of this Part.

S. 153TR inserted by No. 35/1997 s. 25, amended by No. 55/1997 s. 9(2) (ILA s. 39B(1)).

S. 153TR(2) inserted by No. 55/1997 s. 9(2).

Division 2—Allocation of property

153TS. *TCO to prepare allocation statement*

- (1) The TCO must give to the Treasurer and the Minister, within the period of 3 months after the date on which the TCO is nominated under section 153TR or within such longer period as the Treasurer and the Minister approve, a statement or statements approved by the Minister relating to the property, rights and liabilities of the TCO as at a date specified by the Minister for the purposes of the relevant statement.
- (2) A statement under this section—
 - (a) must allocate the property, rights and liabilities of the TCO shown in the statement to, or between, the person or persons nominated in writing by the Minister;
 - (b) must be signed by the chief executive officer of the TCO.
- (3) If a statement under this section is approved by the Treasurer and the Minister—

S. 153TS inserted by No. 35/1997 s. 25.

S. 153TS(1) amended by No. 10/1998 s. 10(1)(a).

Electricity Industry Act 1993
Act No. 130/1993

- (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement is an allocation statement for the purposes of this Part.
- (4) The Treasurer and the Minister may at any time direct the TCO to amend a statement given to them under this section as specified in the direction.
- (5) An allocation statement under this section may be amended by writing signed by the Treasurer and the Minister.
- (6) A direction under sub-section (4) or an amendment under sub-section (5) that would affect a person or persons nominated by the Minister under sub-section (1) must not be given or made unless that person or those persons are, or are wholly owned by, the State or a statutory authority or have consented in writing to the direction or amendment.
- (7) In this section, "**statement**" and "**allocation statement**" include a statement or allocation statement amended in accordance with this section.

S. 153TT
inserted by
No. 35/1997
s. 25.

153TT. *Certificate of Administrator*

- (1) A certificate signed by the Administrator certifying that property, rights or liabilities of the TCO specified in the certificate have been allocated under the allocation statement to a person so specified is, unless revoked under sub-section (2), conclusive evidence—
- (a) that the property, rights or liabilities have been so allocated; and

- (b) that the property, rights or liabilities vested in or became the property, rights or liabilities of the person on the relevant date.
- (2) If the Treasurer and the Minister so direct the Administrator in writing, the Administrator must revoke a certificate given under sub-section (1) by issuing another certificate or certificates in place of the first certificate.
- (3) The Administrator—
- (a) must keep a register of certificates issued under this section; and
- (b) must make the register reasonably available for inspection by an interested person.

Division 3—Transfer of property

153TU. *Property transferred*

On the relevant date—

- (a) all property and rights of the TCO, wherever located, that are allocated under an allocation statement relating to the TCO to a person, or any 2 or more persons, vest in that person or persons; and
- (b) all liabilities of the TCO, wherever located, that are allocated under an allocation statement relating to the TCO to a person, or to any 2 or more persons, become liabilities of that person or persons.

S. 153TU
inserted by
No. 35/1997
s. 25.

153TUA. *Value to TCO of transferred property*

If, in an agreement for the sale by the TCO of the business or assets of the TCO, a value is ascribed to property, rights or liabilities that are allocated to a TCO transferee under an allocation statement,

S. 153TUA
inserted by
No. 55/1997
s. 10.

that value is deemed to be consideration paid to, or received by, the TCO.

153TV. *Allocation of property etc. subject to encumbrances*

Unless an allocation statement under this Part otherwise provides, where, under this Part—

- (a) property and rights vest in; or
- (b) liabilities become liabilities of—
a person or 2 or more persons—
- (c) the property and rights so vested are subject to the encumbrances (if any) to which they were subject immediately before so vesting; and
- (d) the rights to which the TCO was entitled in respect of those liabilities immediately before they ceased to be liabilities of the TCO vest in the person or persons.

153TW. *Substitution of party to agreement*

If, under an allocation statement, the rights and liabilities of the TCO under an agreement are allocated to a person—

- (a) the person becomes, on the relevant date, a party to the agreement in place of the TCO; and
- (b) on and after the relevant date, the agreement has effect as if the person had always been a party to the agreement.

153TX. *TCO instruments*

Each TCO instrument relating to former TCO property continues to have effect according to its tenor on and after the relevant date as if a reference in the instrument to the TCO were a reference to the TCO transferee.

Electricity Industry Act 1993
Act No. 130/1993

s. 153TY

153TY. Proceedings

If, immediately before the relevant date, proceedings relating to former TCO property (including arbitration proceedings) to which the TCO was a party were pending or existing in any court or tribunal, then, on and after that date, the TCO transferee is substituted for the TCO as a party to the proceedings and has the same rights in the proceedings as the TCO had.

S. 153TY
inserted by
No. 35/1997
s. 25.

153TZ. Interests in land

Without prejudice to the generality of this Part and despite anything to the contrary in any other Act or law, if, immediately before the relevant date, the TCO is, in relation to former TCO property, the registered proprietor of an interest in land under the **Transfer of Land Act 1958**, then on and after that date—

S. 153TZ
inserted by
No. 35/1997
s. 25.

- (a) the TCO transferee is to be taken to be the registered proprietor of that interest in land; and
- (b) the TCO transferee has the same rights and remedies in respect of that interest as the TCO has.

153TZA. Amendment of Register

- (1) The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument and certificate of the Administrator, must make any amendments in the Register that are necessary because of the operation of this Part.

S. 153TZA
inserted by
No. 35/1997
s. 25.

- (1A) Despite sub-section (1), it is not necessary to produce a certificate of title in the case of a request for amendment to the Register in relation to transferred property that is an easement registered under the **Transfer of Land Act 1958**.

S. 153TZA(1A)
inserted by
No. 10/1998
s. 7(6).

s. 153TZB

Electricity Industry Act 1993
Act No. 130/1993

- (2) The Registrar-General must make all entries on the records of enrolment of any Crown grant and on any memorial relating to land that are necessary because of the operation of this Part.
- (3) If any land allocated under an allocation statement under this Part is not Crown land and is not under the operation of the **Transfer of Land Act 1958**, the TCO transferee concerned must, as soon as practicable after the land vests in accordance with the allocation statement, cause a memorial of the certificate of the Administrator (that complies with Part I of the **Property Law Act 1958**) to be delivered to the office of the Registrar-General and, for the purposes of that Part, that certificate must be taken to be an instrument affecting land.

S. 153TZB
inserted by
No. 35/1997
s. 25.

153TZB. Evidence

- (1) Documentary or other evidence that would have been admissible for or against the interests of the TCO in relation to former TCO property if this Part had not been enacted, is admissible for or against the interests of the TCO transferee.
- (2) Division 3A of Part III of the **Evidence Act 1958** continues to apply with respect to the books of account of the TCO and to entries made in those books of account before the relevant date, whether or not they relate to former TCO property.
- (3) In sub-section (2), "**books of account**" has the same meaning as in Division 3A of Part III of the **Evidence Act 1958**.

S. 153TZC
inserted by
No. 35/1997
s. 25.

153TZC. Validity of things done under this Part

- (1) Nothing effected by this Part or done or suffered under this Part or the cessation of carrying on business by a TCO—
 - (a) is to be regarded as placing the TCO, the State, a Minister or another person in breach

- of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
- (b) is to be regarded as placing any of them in breach of or as constituting a default under any Act or other law or any provision in any agreement, arrangement or understanding including, without limiting the generality of the foregoing, any provision prohibiting, restricting or regulating the assignment or transfer of any property or the disclosure of any information; or
- (c) is to be regarded as fulfilling any condition which allows a person to exercise a right or remedy in respect of or to terminate any agreement or obligation; or
- (d) releases any surety or other obligee wholly or in part from any obligation.
- (2) The validity of any act or transaction of a TCO must not be called in question in any proceedings on the ground that any provision of this Act had not been complied with.

Division 4—Staff

153TZD. *List of TCO staff*

- (1) Before the relevant date in relation to a TCO, the TCO must prepare and submit to the Minister and Treasurer a document signed by the chief executive officer listing officers and employees of the TCO and specifying, in respect of each such officer or employee, the person by which he or she is to be regarded as having been employed by virtue of section 153TZE with effect from the relevant date.

**S. 153TZD
 inserted by
 No. 35/1997
 s. 25.**

- (2) The document may be amended by instrument signed by the chief executive officer and given to the Minister and Treasurer and the amendment is to be regarded as having effect, or having had effect, from the relevant date.
- (3) Nothing in this section prevents a person listed in the document as an officer or employee of the TCO from resigning or being dismissed at any time before the relevant date in accordance with the terms and conditions of his or her appointment or employment.

153TZE. *Transfer of TCO staff*

- (1) A person listed as an officer or employee of a TCO in a document under section 153TZD who was such an officer or employee immediately before the relevant date in relation to the TCO is to be regarded as—
 - (a) having been employed by the new employer with effect from the relevant date; and
 - (b) having been so employed on the same terms and conditions as those that applied to the person, immediately before the relevant date, as an officer or employee of the TCO; and
 - (c) having accrued an entitlement to benefits, in connection with that employment by the new employer, that is equivalent to the entitlement that the person had accrued, as an officer or employee of the TCO, immediately before the relevant date.
- (2) The service of a transferred TCO employee as an employee of the new employer is to be regarded for all purposes as having been continuous with the service of the employee, immediately before the relevant date, as an officer or employee of the TCO.

s. 153TZE
inserted by
No. 35/1997
s. 25.

Electricity Industry Act 1993
Act No. 130/1993

s. 153TZF

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- (3) A transferred TCO employee is not entitled to receive any payment or other benefit by reason only of having ceased to be an officer or employee of the TCO because of this Act.
- (4) A certificate purporting to be signed by the Administrator certifying that a person named in the certificate was with effect from the relevant date employed, by virtue of this section, by a person named in the certificate is admissible in evidence in any proceedings and is conclusive proof of the matters stated in it.

153TZF. *Future terms and conditions of transferred employees*

S. 153TZF
inserted by
No. 35/1997
s. 25.

Nothing in section 153TZE prevents—

- (a) any of the terms and conditions of employment of a transferred TCO employee from being altered by or under any law, award or agreement with effect from any time after the relevant date; or
- (b) a transferred TCO employee from resigning or being dismissed at any time after the relevant date in accordance with the then existing terms and conditions of his or her employment by the new employer.

153TZG. *Superannuation*

S. 153TZG
inserted by
No. 35/1997
s. 25.

Without limiting section 84(5), SEC may, at any time before or after the relevant date, amend the rules referred to in section 84(1) to recognise for the purposes of membership of the Victorian Electricity Industry Superannuation Fund the continuity of service that must be taken to exist by virtue of section 153TZE(2).

PART 11B—PROVISIONS RELATING TO PRIVATISATION

153U. *Treasurer may be party to agreement for sale*

The Treasurer, on behalf of the Government of Victoria, may be a party to an agreement for the sale or disposal of shares in or other property of a public distribution company, public transmission company or a public generation company, being a sale or disposal on such terms and conditions as the Treasurer approves.

153UA. *Loy Yang B transaction*

The Treasurer, on behalf of the Government of Victoria, is deemed to have been authorised to enter into, and may give effect to, the LYB Transaction Implementation Agreement and may enter into and give effect to all transactions referred to or contemplated in the LYB Transaction Implementation Agreement, including the sale of the interest in the Loy Yang B Power Station held by Loy Yang B Power Station Pty Ltd.

153V. *Transfer of shares to SEC*

- (1) The Treasurer may, on behalf of the Government of Victoria, direct that the shares in a public distribution company, public transmission company or a public generation company that are held by or on behalf of the State or a statutory authority be transferred to SEC for such consideration (if any) as the Treasurer determines.

Electricity Industry Act 1993
Act No. 130/1993

s. 153W

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- (2) SEC must pay to the Treasurer the consideration determined under sub-section (1) upon the transfer of the relevant shares to SEC.
 - (3) No stamp duty or other tax is chargeable under any Act in respect of the transfer of shares to SEC in accordance with this section.

153W. *Distribution company, transmission company or generation company to pay certain amounts to SEC*

S. 153W
inserted by
No. 56/1995
s. 35.

- (1) A distribution company that is liable under section 121(3) to pay certain amounts to the Treasurer must, if so directed by the Treasurer, pay those amounts to SEC and not to the Treasurer.
- (1A) A transmission company that is liable under section 103(3) to pay certain amounts to the Treasurer must, if so directed by the Treasurer, pay those amounts to SEC and not to the Treasurer.
- (2) A distribution company that is liable under section 141(3) to pay certain amounts to the Treasurer must, if so directed by the Treasurer, pay those amounts to SEC and not to the Treasurer.
- (3) A generation company that is liable under section 153F(3) to pay certain amounts to the Treasurer must, if so directed by the Treasurer, pay those amounts to SEC and not to the Treasurer.
- (4) If the Treasurer so determines, SEC must pay to the Treasurer such amount as the Treasurer determines as consideration for the entitlement to receive payments from a distribution company, a transmission company or a generation company under this section.

S. 153W(1A)
inserted by
No. 35/1997
s. 23(2).

S. 153W(4)
amended by
No. 35/1997
s. 23(3).

153X. *Freedom of Information Act 1982*

S. 153X
inserted by
No. 56/1995
s. 35.

s. 153X

Electricity Industry Act 1993
Act No. 130/1993

The **Freedom of Information Act 1982** does not apply to a document to the extent to which the document discloses information about—

S. 153X(a)
amended by
No. 35/1997
s. 23(4).

(a) the identity of any person expressing an interest in purchasing, or making an offer to purchase, any shares in a public distribution company, a public transmission company or a public generation company or any property or rights of such a company; or

S. 153X(b)
amended by
No. 14/1997
s. 13.

(b) the terms of any expression of interest or offer referred to in paragraph (a); or

S. 153X(c)
inserted by
No. 14/1997
s. 13.

(c) the terms of the LYB Transaction Implementation Agreement or the transactions referred to or contemplated in that Agreement.

PART 12—REGULATION OF ELECTRICITY INDUSTRY

Pt 12
(Heading and
ss 154–169)
inserted by
No. 53/1994
s. 25.

154. Definitions

S. 154
inserted by
No. 53/1994
s. 25.

In this Part—

* * * * *

S. 154 def. of
"distributor"
repealed by
No. 56/1995
s. 25(b).

"franchise customer" means a customer other than a non-franchise customer;

* * * * *

S. 154 def. of
"licence"
repealed by
No. 55/1997
s. 4(3).

"non-franchise customer" means a customer who purchases a load or amount of electricity that exceeds prescribed limits determined in accordance with the regulations;

S. 154 def. of
"non-franchise customer"
substituted by
No. 110/1994
s. 26.

* * * * *

S. 154 def. of
"Office"
repealed by
No. 56/1995
s. 25(b).

"pool rules" means the rules relating to the operation of the market for wholesale trading in electricity operated and administered by VPX;

S. 154 def. of
"pool rules"
inserted by
No. 56/1995
s. 25(c).

"retailer" means the holder of a licence to sell electricity otherwise than through the wholesale electricity market.

S. 155
inserted by
No. 53/1994
s. 25.

S. 155A
inserted by
No. 55/1997
s. 11.

155. *Construction of Part*

This Part is relevant legislation for the purposes of the **Office of the Regulator-General Act 1994**.

155A. *Conferral of power on ACCC in relation to transmission pricing*

- (1) The Minister, on behalf of the State, may enter into an agreement with the Commonwealth and the Australian Competition and Consumer Commission established by section 6A of the Trade Practices Act 1974 of the Commonwealth ("ACCC") for the performance of such functions and the exercise of such powers as the Office has in relation to the regulation of charges for connection to, and the use of, the transmission system, whether under an Order made under section 158A or otherwise.
- (2) The ACCC, and the members of the ACCC, have power to perform such functions and exercise such powers as are conferred on the ACCC by an agreement under sub-section (1).
- (3) An agreement referred to in sub-section (1) shall be published in the Government Gazette.
- (4) An agreement under sub-section (1) comes into effect on publication of a copy in accordance with sub-section (3) or on such later date as is specified in the agreement.
- (5) Despite anything to the contrary in section 39A of the **Office of the Regulator-General Act 1994**, the Office may give to the ACCC such information as may be necessary or convenient for the ACCC to have in connection with carrying out the functions and powers of the Office that are conferred on the ACCC by an agreement under this section.

156. *Application of Part*

This Part applies to any person, including SEC, an electricity corporation, VPX and any distribution company, transmission company and generation company.

S. 156
inserted by
No. 53/1994
s. 25,
amended by
Nos 110/1994
s. 33(2),
35/1997
s. 24(a).

157. *Objectives of the Office*

The objectives of the Office under this Act are—

- (a) to promote competition in the generation, supply and sale of electricity;
- (b) to ensure the maintenance of an efficient and economic system for the generation, transmission, distribution, supply and sale of electricity;
- (c) to protect the interests of consumers with respect to electricity prices and the safety, reliability and quality of electricity supply;
- (d) to facilitate the maintenance of a financially viable electricity supply industry.

S. 157
inserted by
No. 53/1994
s. 25.

157A. *Co-generation facilities*

- (1) The Office may, on the application of a person or of its own motion, determine for the purposes of this Act that facilities from which generating capacity to which the person is entitled is derived—
 - (a) are co-generation facilities; or
 - (b) are not co-generation facilities.
- (2) Section 179 applies to sub-section (1) and to a determination under that sub-section as if a reference in section 179 to Part 13 included a reference to this section.

S. 157A
inserted by
No. 48/1996
s. 6.

S. 158
inserted by
No. 53/1994
s. 25.

158. *Powers in relation to price regulation*

- (1) For the purposes of Part 3 of the **Office of the Regulator-General Act 1994**—
 - (a) the electricity industry is a regulated industry; and
 - (b) the power to regulate prescribed prices in respect of prescribed goods and services is conferred on the Office in respect of the following—
 - (i) tariffs for the sale of electricity to franchise customers;
 - (ii) charges for connection to, and the use of, any distribution system;
 - (iii) unless an Order is in force under subsection (2), charges for connection to, and the use of, the transmission system.
- (2) The Governor in Council may, by Order published in the Government Gazette, declare that charges for connection to, and the use of, the transmission system are subject to the regulation of the ACCC under an agreement entered into under section 155A and are not subject to the regulation of the Office.

S. 158(1)(b)(iii)
amended by
No. 55/1997
s. 12(1)(a).

S. 158(2)
repealed by
No. 56/1995
s. 44(3), new
s. 158(2)
inserted by
No. 55/1997
s. 12(2).

158A. *Tariff order*

- (1) The Governor in Council may, by Order published in the Government Gazette, regulate, in such manner as the Governor in Council thinks fit—
 - (a) tariffs for the sale of electricity to franchise customers;
 - (b) charges for connection to, and the use of, any distribution system;

S. 158A
inserted by
No. 110/1994
s. 27.

Electricity Industry Act 1993
Act No. 130/1993

s. 158A

- | | |
|--|--|
| <p>(c) unless an Order is in force under section 158(2), charges for connection to, and the use of, the transmission system;</p> <p>(d) any other prices in respect of goods and services, being prices and goods and services declared in accordance with sub-section (1A) to be prescribed prices and prescribed goods and services in respect of the electricity industry.</p> | <p>S. 158A(1)(c) amended by No. 55/1997 s. 12(1)(b).</p> <p>S. 158A(1)(d) amended by No. 56/1995 s. 26(1).</p> |
| <p>(1A) The Order may declare prices and goods and services to be prescribed prices and prescribed goods and services in respect of the electricity industry for the purposes of the Office of the Regulator-General Act 1994.</p> | <p>S. 158A(1A) inserted by No. 56/1995 s. 26(2).</p> |
| <p>(1B) The Order may direct the Office to make a determination under the Office of the Regulator-General Act 1994 in respect of such factors and matters or in accordance with such procedures, matters or bases as are specified in the Order, or both.</p> | <p>S. 158A(1B) inserted by No. 56/1995 s. 26(2).</p> |
| <p>(1C) The first Order made under this section has effect from 3 October 1994.</p> | <p>S. 158A(1C) inserted by No. 56/1995 s. 26(2).</p> |
| <p>(2) Without limiting the generality of sub-section (1), the manner may include—</p> <p style="margin-left: 20px;">(a) fixing the price or the rate of increase or decrease in the price;</p> <p style="margin-left: 20px;">(b) fixing a maximum price or maximum rate of increase or minimum rate of decrease in the maximum price;</p> <p style="margin-left: 20px;">(c) fixing an average price for specified goods or services or an average rate of increase or decrease in the average price;</p> <p style="margin-left: 20px;">(d) specifying pricing policies or principles;</p> | |

- (e) specifying an amount determined by reference to a general price index, the cost of production, a rate of return on assets employed or any other specified factor;
- (f) specifying an amount determined by reference to quantity, location, period or other specified factor relevant to the rate or supply of the goods or services;
- (g) fixing a maximum revenue or maximum rate of increase or minimum rate of decrease in the maximum revenue in relation to specified goods or services.

(3) An Order under sub-section (1)—

- (a) has effect as from the date specified in the Order as if the tariffs, charges and other matters to which the Order applies had been determined by the Office.

S. 158A(3)(a)
 amended by
 No. 56/1995
 s. 26(3)(a).

S. 158A(3)(b)
 repealed by
 No. 56/1995
 s. 26(3)(b).

S. 158B
 inserted by
 No. 56/1995
 s. 27, repealed
 by No.
 10/1998

S. 8(a)
 S. 158BA
 inserted by
 No. 14/1997
 s. 15.

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*	*	*	*	*

158BA. *Power to regulate certain changes*

- (1) The Governor in Council, by Order published in the Government Gazette, may regulate, in such manner as the Governor in Council sees fit, the price payable for electricity purchased from time to time under the pool rules for the purpose of—
 - (a) reducing the price payable by SEC for electricity purchased by SEC to satisfy its obligations under the agreements, contracts and deeds referred to in Part A of Schedule 3; and

- (b) increasing the price payable by persons other than SEC for electricity purchased under the pool rules during a period so that the total amount payable for the volume of electricity purchased by those persons during that period is increased by an amount that is approximately the same as the amount of the reduction under paragraph (a) as applied to the volume of electricity purchased by SEC during that period.
- (2) An Order under sub-section (1)—
- (a) may specify different prices, or different methods of determining prices, to be payable or applicable to different persons purchasing electricity under the pool rules; and
- (b) may provide that the pool rules apply as modified by the Order from the date specified in the Order.

158C. *Limit on power to vary or make Orders*

- (1) On or after the day on which it first happens that any public distribution company or public generation company ceases to be a public distribution company or a public generation company—
- (a) except in accordance with this section, any Order in force under section 158A cannot be amended or varied, but may be wholly revoked; and
- (b) an Order cannot be made under section 158A, other than an Order wholly revoking another Order; and

S. 158C inserted by No. 56/1995 s. 27, amended by No. 14/1997 s. 14(1)(a).

S. 158C(1)(a) amended by Nos 8/1996 s. 15(1), 14/1997 s. 14(1)(b), substituted by No. 35/1997 s. 13(1).

S. 158C(1)(b) amended by No. 8/1996 s. 15(1).

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S. 158C(1)(ba)
inserted by
No. 8/1996
s. 15(2).

- (ba) an Order in force under section 158B—
- (i) may be amended, with effect from the date of its commencement, by one Order only of the Governor in Council published in the Government Gazette;
 - (ii) may be wholly revoked;

S. 158C(1)(bb)
inserted by
No. 8/1996
s. 15(2).

- (bb) an Order under paragraph (ba)(i) cannot be amended or varied;

S. 158C(1)(bc)
inserted by
No. 8/1996
s. 15(2).

- (bc) an Order cannot be made under section 158B, other than an Order—
- (i) wholly revoking another Order; or
 - (ii) revoking another Order and making a new Order with effect from the commencement of the first Order;

S. 158C(1)(bd)
inserted by
No. 8/1996
s. 15(2).

- (bd) if an Order is made under section 158B revoking another Order and making a new Order, a later Order cannot be made under that section, other than an Order wholly revoking another Order;

- (c) an Order cannot be made under section 163A other than—

- (i) an Order wholly revoking another Order; or
- (ii) an Order determining an impost payable by a distribution company in relation to a financial year in respect of which an Order has not previously been made under that section in relation to that distribution company.

S. 158C(2)
inserted by
No. 14/1997
s. 14(2).

- (2) The Governor in Council, by Order published in the Government Gazette, may amend or vary an Order in force under section 158A in accordance
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with the recommendation in writing of the Treasurer that it is necessary or desirable to make the Order as a consequence of SEC ceasing to purchase electricity under the Power Supply Agreement within the meaning of the State Agreement set out in Schedule 1 to the **Loy Yang B Act 1992**.

- (3) An Order in force under section 158A may be amended, on the recommendation of the Treasurer, by one Order only of the Governor in Council published in the Government Gazette for the purpose of—
- (a) applying the Order to transmission companies;
 - (b) amending or varying the Order in so far as it applies to transmission companies;
 - (c) amending or varying the Order in so far as it applies to persons other than transmission companies if the amendment or variation is consequential on an amendment or variation under paragraph (b).
- (4) An Order in force under section 158A may be amended, on the recommendation of the Treasurer, by one Order only of the Governor in Council published in the Government Gazette for the purpose of facilitating a reduction in the amount payable by franchise customers to distribution companies for the purchase of electricity.
- (5) Despite sub-section (1)(c), an Order in force under section 163A may be amended, on the recommendation of the Treasurer, by one Order only of the Governor in Council published in the Government Gazette for the purpose of facilitating

S. 158C(3)
inserted by
No. 35/1997
s. 13(2).

S. 158C(4)
inserted by
No. 10/1998
s. 6.

S. 158C(5)
inserted by
No. 10/1998
s. 6.

a reduction in the imposts payable to the
Treasurer.

158D. Wholesale electricity market rules

- (1) The Governor in Council, by Order published in the Government Gazette, may, in accordance with a recommendation of the Treasurer under this section, make rules to facilitate the operation of a wholesale market for trading in electricity.
- (2) The Treasurer may recommend the making of rules under sub-section (1) if satisfied that it is necessary or desirable to make the rules to facilitate the operation of a wholesale market for trading in electricity between persons in Victoria and persons in one or more other States or Territories.
- (3) Rules made under sub-section (1) have effect as if they formed part of the pool rules but may not be amended except by rules made under this section.
- (4) If a provision of the pool rules is inconsistent with a provision of rules made under sub-section (1), the provision of the pool rules has no effect while the other provision is in force.
- (5) A rule made under this section is an exempt instrument within the meaning of section 4(4) of the **Subordinate Legislation Act 1994**.

158E. Declaration altering effect of pool rules

- (1) The Governor in Council may include in an Order under section 158D a declaration that the pool rules have effect as if amended as specified in the declaration.
- (2) The pool rules have effect in accordance with a declaration under sub-section (1) except in so far as a later amendment (whether or not made under this Act) otherwise provides.

159. Prohibition

- (1) A person must not engage in the generation of electricity for supply or sale or the transmission, distribution, supply or sale of electricity unless the person—
 - (a) is the holder of a licence authorising the relevant activity; or
 - (b) is exempted from the requirement to obtain a licence in respect of the relevant activity.
- (2) A person must not operate or administer a market for wholesale trading in electricity unless the person is the holder of a licence authorising that activity.
- (3) The penalty upon conviction for an offence against sub-section (1) or (2) is a penalty of not more than 1000 penalty units and not more than 100 penalty units for each day after the day on which a notice of contravention of sub-section (1) or (2) is served on the person by the Office.

S. 159 inserted by No. 53/1994 s. 25.

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S. 159(4)(5) repealed by No. 25/1998 s. 165(6).

- (6) This section does not prohibit the transmission, distribution or supply of electricity by and for the use of the Public Transport Corporation.

S. 159(6) inserted by No. 48/1996 s. 8.

160. Exemptions

- (1) The Governor in Council may by Order in Council published in the Government Gazette exempt a person from the requirement to obtain a licence in respect of the activity specified in the Order in Council.
- (2) An exemption may be of general or specific application.

S. 160 inserted by No. 53/1994 s. 25.

- (3) An exemption is subject to such terms, conditions and limitations as are specified in the Order in Council.

161. *Application for licence*

- (1) A person may apply to the Office for the issue of a licence authorising such one or more of the following activities as are specified in the licence—
- (a) to generate electricity for supply or sale;
 - (b) to transmit electricity;
 - (c) to distribute or supply electricity;
 - (ca) to sell electricity;
 - (d) to operate and administer a market for wholesale trading in electricity.
- (2) An application must be in a form approved by the Office and accompanied by such documents as may be determined by the Office.
- (3) An application must be accompanied by the application fee (if any) fixed by the Office.
- (4) This section is deemed to have been enacted as amended by section 28(1) of the **Electricity Industry (Amendment) Act 1995**.

162. *Determination of application*

- (1) Subject to sub-sections (2), (2A) and (2B), the Office may grant or refuse an application for the issue of a licence for any reason it considers

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appropriate, having regard to the objectives specified in section 157.

(2) The Office must not grant an application for the issue of a licence unless the Office is satisfied that—

(a) subject to sub-section (2A), in the case of an applicant for a licence to sell electricity, the applicant is financially viable; and

S. 162(2)(a) amended by No. 56/1995 s. 28(3).

(b) the applicant has the technical capacity to comply with the conditions of the licence;

S. 162(2)(b) amended by No. 56/1995 s. 46(2)(a).

* * * * *

S. 162(2)(c) amended by No. 56/1995 s. 28(4), repealed by No. 56/1995 s. 46(2)(b).

(d) in the case of an application for a licence to generate electricity for supply or sale or a licence to distribute or supply electricity, the applicant is a company incorporated under the Corporations Law of Victoria or a statutory authority or a corporation all the shares in which are held by, or on behalf of, the State or by a statutory authority.

S. 162(2)(d) inserted by No. 56/1995 s. 28(4).

(2A) The Office does not have to be satisfied as to the matter specified in sub-section (2)(a) if the applicant is applying for a licence which includes a condition requiring compliance with the pool rules and the pool rules include prudential requirements.

S. 162(2A) inserted by No. 56/1995 s. 28(5).

(2AA) The Office does not have to be satisfied as to the matter specified in sub-section (2)(d) if, having regard to the conditions to which the licence to be

S. 162(2AA) inserted by No. 48/1996 s. 9.

granted to the applicant will be subject, the Minister so approves at the request of the Office.

- (2B) If the Office has issued a licence authorising a distribution company to sell electricity to franchise customers, the Office must not issue a licence to another applicant authorising the sale of electricity to those franchise customers unless the Minister and the licensed distribution company have consented to the issue of the licence.
- (3) The Office must publish a notice in a daily newspaper generally circulating in Victoria—
- (a) specifying that an application for a licence in respect of the relevant activity has been lodged with the Office by the person specified in the notice; and
 - (b) inviting interested persons to make submissions to the Office in respect of the application within the period and in the manner specified in the notice.
- (4) Subject to this section and any requirements specified in regulations made for the purposes of this section under section 92, the Office may determine the procedures that are to apply in respect of the issue of licences.
- (5) The Office must notify an applicant in writing of its decision to grant or refuse to grant the application and, in the case of a decision to refuse to grant the application, of the reasons for its decision.

163. *Provisions relating to licences*³

- (1) A licence is to be issued for such term (if any) as is determined by the Office and is specified in the licence.

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(2) A licence is subject to such conditions as are determined by the Office.

(2A) If a licence is issued to 2 or more persons for the purpose of the carrying on by those persons of the activities authorised by the licence in partnership or as an unincorporated joint venture, the licence may include conditions relating to the carrying on of those activities in that manner.

S. 163(2A)
inserted by
No. 48/1996
s. 10(1).

(3) Without limiting the generality of sub-section (2) or (2A), the conditions may include provisions—

S. 163(3)
amended by
No. 48/1996
s. 10(2).

- (a) requiring the licensee to pay specified fees and charges in respect of the licence to the Office;
- (b) requiring the licensee to enter into agreements on specified terms or on terms of a specified type;
- (c) requiring the licensee to observe specified industry codes and specified pool rules with such modifications or exemptions as may be determined by the Office;
- (d) requiring the licensee to maintain specified accounting records and to prepare accounts according to specified principles;
- (da) specifying requirements about the ownership of real or personal property used in or in connection with the carrying on of the activities authorised by the licence;
- (e) preventing the licensee from engaging in or undertaking specified business activities;
- (f) specifying methods or principles to be applied by the licensee in determining prices or charges;

S. 163(3)(da)
inserted by
No. 48/1996
s. 10(3).

S. 163(3)(ha)
inserted by
No. 79/1995
s. 11(2).

S. 163(3)(j)
substituted by
No. 56/1995
s. 29(1).

S. 163(3)(k)
inserted by
No. 110/1994
s. 28.

S. 163(4)
inserted by
No. 56/1995
s. 29(2).

S. 163(5)
inserted by
No. 56/1995
s. 29(2),
substituted by
No. 79/1995
s. 12(1).

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- (g) specifying methods or principles to be applied in the conduct of activities authorised by the licence;
 - (h) specifying procedures for variation or revocation of the licence;
 - (ha) specifying procedures for variation of the conditions by the Treasurer;
 - (i) specifying the procedures to apply if an administrator is appointed under section 166;
 - (j) requiring the licensee to provide, in the manner and form determined by the Office, such information as the Office may from time to time require;
 - (k) requiring the licensee to develop, issue and comply with customer-related standards, procedures, policies and practices (including with respect to the payment of compensation to customers).
- (4) For the purposes of sub-section (3)(a) the fees and charges to be specified in respect of a licence are to be determined by the Minister having regard to the proportion of the total costs of the Office that are incurred in the administration of this Part.
- (5) If the Office—
- (a) issues a single licence authorising each of the activities referred to in section 161(1)(a) and (c); or
 - (b) issues to the same person separate licences which together authorise each of those activities; or
 - (c) approves the transfer of a licence as a result of which the same person holds separate
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licences which together authorise each of those activities—

the licence, or each such licence, must contain a condition prohibiting the person from having an entitlement—

- (d) to generating capacity within the meaning of Part 13 of more than 30 megawatts derived from facilities which are not co-generation facilities; and
 - (e) to generating capacity within the meaning of Part 13 of more than 200 megawatts derived from facilities of any kind.
- (6) If a licence is subject to conditions of a kind referred to in sub-section (3)(c), the Office—
- (a) may, in accordance with procedures specified by the Office, amend the specified industry codes or specified pool rules, or a document referred to in such a code or rule, for the purposes of their application under the licence;
 - (b) may resolve, or seek to resolve, disputes between the licensee and any other person relating to the specified industry codes or specified pool rules, or a document referred to in such a code or rule, as they apply under the licence.
- (7) If the Office amends an industry code or the pool rules or a document referred to in a code or the rules under sub-section (6), the Office may at the same time, in accordance with procedures specified by the Office, amend that code or those rules or that document for the purposes of their application otherwise than under the licence.

S. 163(6)
inserted by
No. 79/1995
s. 12(1).

S. 163(6)(b)
amended by
No. 48/1996
s. 10(4).

S. 163(7)
inserted by
No. 48/1996
s. 10(5).

163AAA. Condition in distribution company licence

S. 163AAA
inserted by
No. 35/1997
s. 14.

S. 163AAA(1)
amended by
No. 55/1997
s. 13(1)(a).

S. 163AAA(2)
amended by
No. 55/1997
s. 13(1)(b).

S. 163AAA
(3)(b)
substituted by
No. 55/1997
s. 13(1)(c).

S. 163AAA(5)
substituted by
No. 55/1997
s. 13(2).

- (1) Without limiting the generality of section 163, the conditions to which a licence to distribute or supply electricity is subject may include a requirement that, in certain circumstances, the licensee, on terms and conditions approved by the Office, supply and sell electricity to non-franchise customers to whom electricity is supplied under another licence (whether held by that licensee or another licensee).
- (2) In approving the terms and conditions of a requirement referred to in sub-section (1), the Office must have regard to the risks and costs associated with the requirement.
- (3) A requirement referred to in sub-section (1) does not apply so as to require the licensee to supply and sell electricity—
 - (a) outside the distribution area within the meaning of the licensee's licence; or
 - (b) to a non-franchise customer to whom electricity is supplied under another licence if the non-franchise customer elects, in writing given to the holder of that other licence, not to be a non-franchise customer for the purposes of sub-section (1).
- (4) If the conditions to which a licence of a licensee is subject include a requirement referred to in sub-section (1), the licensee is deemed to be the holder of a licence to sell electricity to the extent necessary to comply with the requirement.
- (5) The obligation of the holder of a licence ("**the second licence**") to supply and sell electricity to a non-franchise customer to whom electricity is

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supplied under another licence ("**the first licence**") in accordance with the requirement referred to in sub-section (1) commences when—

- (a) the first licence is suspended or revoked; or
- (b) the right of the holder of the first licence to acquire electricity from the market for wholesale trading in electricity is suspended or terminated—

whichever first occurs, and ends after 3 months or when the non-franchise customer advises the holder of the second licence in writing that the supply and sale is no longer required, whichever first occurs.

- (6) A distribution company to which a condition referred to in sub-section (1) applies must declare, if the condition so requires or, in any other case, may declare, from time to time, subject to that condition and any other conditions of its licence and with the approval of the Office, by notice published in the Government Gazette the terms and conditions upon which the distribution company will supply and sell electricity to non-franchise customers to whom electricity is supplied under another licence in circumstances to which sub-section (5) applies.
- (7) The terms and conditions of which notice has been given by a distribution company in accordance with sub-section (6) are binding on the distribution company and the non-franchise customers to which they apply and, when the distribution company is acting in accordance with the condition referred to in sub-section (1), the terms and conditions have effect despite any agreement or instrument (other than this Act or any Order made under section 158A) to the

S. 163AAA(6)
amended by
No. 55/1997
s. 13(3)(a)(b).

S. 163AAA(7)
amended by
No. 55/1997
s. 13(3)(c).

contrary relating to the supply and sale of electricity to those customers.

- (8) A distribution company and a non-franchise customer to whom the distribution company has an obligation under sub-section (5) to supply and sell electricity are deemed to have entered into a contract on the terms and conditions published under sub-section (6).

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163AA. *Charges payable to Treasurer*

- (1) The Governor in Council, on the recommendation of the Treasurer, may, by Order published in the Government Gazette, declare that specified charges, or charges calculated in a specified manner, are payable as an impost by the holder of a licence at such times and in such manner as are so specified.
- (2) The holder of a licence must pay to the Treasurer for payment into the Consolidated Fund the charges determined under sub-section (1) and applicable to the licence at the times and in the manner so determined.
- (3) An Order made under this section does not apply to a distribution company, a transmission company or a generation company that ceased to be a public distribution company, public transmission company or public generation company before the Order was made.
- (4) Nothing in this section or in an Order under this section prevents a charge being paid, or the payment of a charge being received, before the due date for payment.

S. 163AAA(8) amended by No. 55/1997 s. 13(3)(d).
 S. 163AAA(9) repealed by No. 55/1997 s. 13(3)(e).
 S. 163AA inserted by No. 79/1995 s. 13.
 S. 163AA(3) amended by No. 35/1997 s. 24(b)(i)(ii).

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163A. Franchise fee

- (1) A distribution company that holds, or has held, an exclusive licence under this Part authorising it to sell electricity to franchise customers must pay to the Treasurer, in respect of each financial year during which it holds, or held, such a licence the impost determined in respect of that year by Order of the Governor in Council, on the recommendation of the Treasurer, applying to that company and published in the Government Gazette—
- (a) if the licence is issued before 30 June 1996—
 - (i) before 30 June 1995, in the case of the impost in respect of the financial year ending on that date; and
 - (ii) before 30 June 1996, in the case of the impost in respect of each year ending on 30 June in the period beginning on 30 June 1996 and ending on 30 June 2001; and
 - (b) if the licence is issued on or after 30 June 1996, before the end of the first year of the term of the licence.
- (2) The Treasurer, in recommending the amount of an impost for each financial year payable by a distribution company, must be satisfied that the amount reasonably represents the amount by which the income of the company derived from the sale of electricity to franchise customers in that year is likely to exceed the sum of—
- (a) the costs of deriving the income; and
 - (b) taxes payable in deriving that income; and

S. 163A
inserted by
No. 110/1994
s. 29,
substituted by
No. 56/1995
s. 30.

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- (c) an amount determined by the Treasurer to be a reasonable return on the capital of the company used in deriving that income—
having regard to—
 - (d) any relevant Order in force under section 158A; and
 - (e) the value of property and rights vested in the company under Parts 10 and 11; and
 - (f) the amount of liabilities that became liabilities of the company under Parts 10 and 11; and
 - (g) the likely number of franchise customers of the company in that financial year; and
 - (h) such other matters as the Treasurer determines after consultation with the company.
- (3) The impost in respect of a financial year is payable at such times and in such manner as are determined in the Order.
 - (4) For the purposes of this section, a distribution company has an exclusive licence authorising the sale of electricity to franchise customers if that licence is the only licence in force under this Part authorising the sale of electricity to those customers.

164. *Variation or revocation of licence*

- (1) A licence or the licence conditions may be varied—
 - (a) in accordance with the procedures specified in the licence conditions; or
 - (b) by agreement between the Office and the licensee; or

S. 164
inserted by
No. 53/1994
s. 25.

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- (c) by a notice in accordance with sub-section (2) served on the licensee.
- (2) The Office must not vary a licence or the licence conditions by a notice unless—
- (a) the Office is satisfied that the variation is necessary having regard to the objectives specified in section 157; and
- (b) the Office has given the licensee an opportunity to make representations on the matter.
- (3) The Office may revoke a licence in accordance with the procedures specified in the licence conditions or, in the case of a licence to generate electricity for supply or sale or a licence to distribute or supply electricity (other than a licence to which an approval under section 162(2AA) applies), if it is satisfied that the holder of the licence—
- (a) is not a company incorporated under the Corporations Law of Victoria; and
- (b) is not a statutory authority; and
- (c) is not a corporation all the shares in which are held by, or on behalf of, the State or by a statutory authority.
- 164A. *Limitations on application for, or issue, transfer or variation of, licence***
- (1) The Office must not grant an application for the issue or transfer of a licence to a distribution company to generate electricity for supply or sale if the distribution company is—

S. 164(3) amended by Nos 56/1995 s. 31, 48/1996 s. 10(6).

S. 164(3)(a) inserted by No. 56/1995 s. 31.

S. 164(3)(b) inserted by No. 56/1995 s. 31.

S. 164(3)(c) inserted by No. 56/1995 s. 31.

S. 164A inserted by No. 56/1995 s. 32.

S. 164A(1) amended by No. 79/1995 s. 12(2)(a).

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S. 164A(2)
amended by
No. 79/1995
s. 12(2)(b).

S. 164A(3)
amended by
No. 79/1995
s. 12(2)(c)(i).

S. 164A(3)(a)
amended by
No. 79/1995
s. 12(2)(c)
(ii)(iii).

S. 164A(3)(b)
amended by
No. 79/1995
s. 12(2)(c)(iv).

- (a) entitled to generating capacity within the meaning of Part 13 of more than 30 megawatts derived from facilities which are not co-generation facilities; or
 - (b) entitled to generating capacity within the meaning of Part 13 of more than 200 megawatts derived from facilities of any kind.
- (2) The Office must not grant an application for the issue or transfer of a licence to a generation company to distribute or supply electricity if the generation company is—
- (a) entitled to generating capacity within the meaning of Part 13 of more than 30 megawatts derived from facilities which are not co-generation facilities; or
 - (b) entitled to generating capacity within the meaning of Part 13 of more than 200 megawatts derived from facilities of any kind.
- (3) The Office must not grant an application for the issue or transfer of a licence, and must not vary a licence, if the Office is satisfied—
- (a) that the applicant for the licence or variation, or the transferee, proposes to use property and rights acquired from a person (being a corporation) who is or has been a licensee within the meaning of Part 13 for the purposes of a business proposed to be carried on by the applicant under the licence or by the transferee; and
 - (b) that the applicant, or the transferee, or another person, would have held a prohibited interest if—

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- (i) the applicant, transferee or other person had acquired all the shares in that corporation; and
- (ii) the property and rights acquired had constituted the sole undertaking of that corporation.

S.
164A(3)(b)(i)
amended by
No. 79/1995
s. 12(2)(c)(v).

165. *Gazettal requirement*

The Office must ensure that—

- (a) notice of the grant of a licence including—
 - (i) the name of the licensee;
 - (ii) the term of the licence;
 - (iii) the place where a copy of the licence may be inspected;
- (b) notice of a variation or revocation under section 164—

S. 165
inserted by
No. 53/1994
s. 25,
substituted by
No. 110/1994
s. 30.

is published in the Government Gazette as soon as possible after the grant of a licence or the variation or revocation, as the case requires.

165A. *Resolution of certain disputes*

The Office may resolve, or seek to resolve, in accordance with the pool rules, disputes between 2 or more other persons, none of whom are licensees, relating to the operation, as between those persons, of an industry code or the pool rules.

S. 165A
inserted by
No. 48/1996
s. 11.

166. *Appointment of administrator*

- (1) This section applies if the Office considers that—
 - (a) the contravention by a licence holder of the licence conditions threatens the security of electricity supply; and
 - (b) any other remedies to enforce compliance are not adequate.

S. 166
inserted by
No. 53/1994
s. 25.

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- (2) The Office may appoint an administrator to the business in respect of which the licence is issued.
- (3) The administrator has such functions and powers in relation to the business in respect of which the licence is issued as are specified in the appointment of the administrator.
- (4) Unless sooner revoked by the Office, the appointment of an administrator has effect for a period of 28 days but the appointment may be renewed for a further period or periods, each period not exceeding 28 days.
- (5) The terms and conditions (including remuneration) of appointment of the administrator are to be determined by the Office.

167. *Transfer of licence*

- (1) The holder of a licence may apply to the Office for approval to transfer the licence.
- (2) An application must be in a form approved by the Office and accompanied by such documents as may be determined by the Office.
- (3) An application must be accompanied by the application fee (if any) fixed by the Office.
- (4) The Office must publish in a daily newspaper generally circulating in Victoria a notice—
 - (a) specifying that an application for the transfer of the licence has been lodged with the Office for the transfer by the holder to a proposed transferee specified in the notice; and
 - (b) inviting interested persons to make submissions to the Office in respect of the application within the period and in the manner specified in the notice.

S. 167
inserted by
No. 53/1994
s. 25,
substituted by
No. 79/1995
s. 14.

Electricity Industry Act 1993
Act No. 130/1993

s. 167

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- (5) Subject to this section, the Office may approve, or refuse to approve, the application for any reason it considers appropriate, having regard to the objectives specified in section 157.
- (6) The Office must not approve the application unless the Office is satisfied that—
- (a) the proposed transferee has the technical capacity to comply with the conditions of the licence or the conditions as varied by the Office under this section; and
 - (b) subject to sub-section (7), in the case of an application for the transfer of a licence to sell electricity, the proposed transferee is financially viable; and
 - (c) in the case of an application for the transfer of a licence—
 - (i) to generate electricity for supply or sale; or
 - (ii) to distribute or supply electricity—
the proposed transferee is a company incorporated under the Corporations Law of Victoria or a statutory authority or a corporation all the shares in which are held by, or on behalf of, the State or by a statutory authority.
- (7) The Office does not have to be satisfied as to the matter specified in sub-section (6)(b) if the licence includes a condition requiring compliance with the pool rules and the pool rules include prudential requirements.
- (7A) The Office does not have to be satisfied as to the matter specified in sub-section (6)(c) if, having regard to the conditions to which the licence will

S. 167(7A)
inserted by
No. 48/1996
s. 12.

be subject upon the transfer of the licence, the Minister so approves at the request of the Office.

- (8) The Office may determine that, upon the transfer of the licence under this section, the conditions to which the licence is subject are varied as determined by the Office.
- (9) Subject to this section and any requirements specified in regulations made for the purposes of this section under section 92, the Office may determine the procedures that are to apply in respect of the transfer of the licences.
- (10) The Office must notify an applicant in writing of its decision to approve or refuse to approve the application and, in the case of a decision to refuse to approve the application, of the reasons for its decision.

168. *Transitional provision*

The Office may dispense with such requirements of this Part as the Office considers appropriate in respect of the issue of the initial licences under this Part to SEC, an electricity corporation, VPX, a distribution company, transmission company or generation company.

169. *Obligations of a distribution company*

- (1) A distribution company may from time to time, subject to the conditions of its licence and to sections 158 and 158A, give notice of the tariffs and the terms and conditions upon which the distribution company supplies or sells electricity to franchise customers.
- (2) A distribution company may, subject to the conditions of its licence and to section 158, give

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notice of different tariffs and terms and conditions in respect of any class of consumers.

- (3) The tariffs and terms and conditions of which notice has been given by a distribution company shall have effect from the day of the publication of the notice in the Government Gazette and shall be binding on the distribution company and the franchise customers to which they apply.
- (3A) A distribution company is deemed to have entered into a contract with a franchise customer on the tariffs and terms and conditions published under sub-section (3).
- (4) Despite anything to the contrary in this section, a distribution company may enter into a contract in writing with any franchise customer for the supply and sale of electricity at such rate and on such terms and conditions as may be specified in the contract.
- (5) A distribution company must not disconnect the domestic supply of electricity to any premises for failure by the customer to pay an account for that supply if the failure occurs through lack of sufficient income of the customer and of any other person normally resident on the premises supplied until—
- (a) the distribution company has offered to advise the customer about—
 - (i) optional methods of arranging payment of the account; and
 - (ii) other ways of assisting the customer to pay the account which may be available from government agencies; and
 - (b) the customer—

S. 169(3A)
inserted by
No. 56/1995
s. 33(2).

s. 170

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- (i) refuses or fails to accept that offer of advice within a time specified by the distribution company in each case (being not less than 7 days); or
- (ii) accepts the offer of advice, but refuses or fails to take any reasonable action to pay the account within a time specified by the distribution company in each case (being not less than 7 days).

S. 169(6)
repealed by
No. 56/1995
s. 33(3).

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S. 170
inserted by
No. 110/1994
s. 32.

170. *Agreement with distribution companies*

The Treasurer, on behalf of the Government of Victoria, may enter into an agreement in writing with one or more of the distribution companies relating to franchise fees and such other matters as the Treasurer determines.

**PART 13—SEPARATION OF GENERATION AND
DISTRIBUTION SECTORS**

Pt 13
(Heading and
ss 171–182)
inserted by
No. 56/1995
s. 36.

171. Definitions

S. 171
inserted by
No. 56/1995
s. 36.

(1) In this Part—

"associate" has the meaning, in relation to a person, it would have under Division 2 of Part 1.2 of the Corporations Law if—

(a) for paragraphs (b) and (c) of section 12(1) of that Law, there were substituted—

"or

(b) whether the primary person is entitled to shares in or is in a position to exercise certain powers in relation to a body corporate;"
and

(b) sections 13, 14, 16(2) and 17 of that Law were repealed;

"licensee" means—

(a) a distribution company, generation company or transmission company other than a public distribution company, public generation company or public transmission company; or

(b) a person that, under section 160, is exempt from the requirement to obtain a licence to generate electricity for supply or sale—

but does not include a person who—

S. 171(1) def.
of "licensee"
amended by
Nos 48/1996
s. 13(1),
55/1997
s. 14.

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- (c) requires a licence under Part 12 or an exemption under section 160 only because the person generates electricity for supply or sale if the person—
 - (i) is not entitled to generating capacity of more than 30 megawatts derived from facilities which are not co-generation facilities; and
 - (ii) is not entitled to generating capacity of more than 200 megawatts derived from facilities of any kind; or
 - (d) is a statutory authority or a corporation all the shares in which are held by or on behalf of the State or by a statutory authority;

"officer", in relation to a corporation, has the same meaning as in section 9 of the Corporations Law;

"relevant agreement" means an agreement, arrangement or understanding—

- (a) whether formal or informal or partly formal and partly informal; and
- (b) whether written or oral or partly written and partly oral; and
- (c) whether or not having legal or equitable force and whether or not based on legal or equitable rights;

"share" has the same meaning as in the Corporations Law;

"voting share", in relation to a corporation, has the same meaning as in section 9 of the Corporations Law.

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- (2) For the purposes of this Part, a person has a relevant interest in a share if, and only if, the person would be taken to have a relevant interest in the share because of Division 5 of Part 1.2 of the Corporations Law but a person does not have a relevant interest in a share in a corporation only because the person has a right of pre-emption in relation to that share if the corporation—
- (a) was formed by two or more persons for the purpose of enabling those persons to carry on an activity jointly by means of their joint control of, or by means of their ownership of shares in, that corporation; and
 - (b) those persons, or persons who have acquired some or all of the shares in that corporation, continue to carry on that activity jointly by either of those means.
- (3) For the purposes of this Part, the shares in a corporation to which a person (being the corporation or any other person) is entitled include shares in the corporation to which the person is entitled in accordance with section 609 of the Corporations Law as if a reference in that section of that Law to a relevant interest were a reference to a relevant interest to which sub-section (2) of this section applies.
- (4) A reference in this Part to the Corporations Law is a reference to that Law as it would apply if references in that Law to a body corporate, corporation or company included references to—
- (a) a body corporate of any kind wherever formed or incorporated and whether formed or incorporated under that Law or any other law; and

- (b) any unincorporated body, being a society, association, company of proprietors or other body, wherever formed, that, under the law of its place of formation, may sue or be sued, or may hold property in the name of the secretary or some other officer of the society, association or body, or in the name of any trustee or trustees; and
- (c) any unincorporated body, being a society, association, company of proprietors or other body or undertaking to which is applied, under the laws of the place of its formation, with or without exceptions, a law in force in that place relating to companies or corporations as if it were a company or corporation within the meaning of that law.

S. 171(4A)
inserted by
No. 79/1995
s. 15(1).

(4A) If—

- (a) assets used in, or liabilities of, the business carried on by a licensee under a licence under this Act; or
- (b) an entitlement of a licensee to generating capacity—

forms part of the trust estate of a unit trust, then, for the purposes of this Part, units in the unit trust are deemed to be shares in a corporation the business of which is the business of the trust estate of the unit trust.

S. 171(5)
amended by
No. 79/1995
s. 15(2)(a).

(5) Without derogating from section 171A, the regulations—

- (a) may provide that relevant interests, or particular classes of relevant interests, in shares, or in particular classes of shares, are, in such circumstances and subject to such conditions (if any) as are specified in the regulations, to be disregarded for such

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- purposes as are specified in the regulations;
and
- (b) may provide that generating capacity, or a particular class of generating capacity, to which a person is entitled is, in such circumstances and subject to such conditions (if any) as are specified in the regulations, to be disregarded for such purposes as are specified in the regulations.
- (6) If the whole or a portion of the share capital of a licensee consists of stock, a reference in this Part to a number of shares in the licensee as a percentage is, in relation to an amount of stock, a reference to the amount of stock that represents that number of shares.
- (7) For the purposes of this Part but subject to section 171A, a person has a controlling interest in a corporation if the person—
- (a) is entitled to more than 20% of the voting shares in the corporation; or
- (b) is entitled to shares in the corporation that confer or, if a dividend were declared or a distribution of profits were made by the corporation, would confer a right to receive the benefit of more than 20% of the dividend or distribution; or
- (c) is entitled to shares in the corporation that confer or, in the event of any other distribution of property or rights by the corporation, whether on dissolution or otherwise, would confer an entitlement to receive the benefit of more than 20% of the property and rights; or

S. 171(7)
amended by
No. 79/1995
s. 15(2)(b).

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S. 171(8)
 amended by
 No. 79/1995
 s. 15(2)(c).

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- (d) is able, whether alone or in concert with another, and whether by any act or omission or otherwise, to dominate or control—
- (i) the corporation; or
 - (ii) the financial and operating policies or management of the corporation; or
 - (iii) the activities of the corporation as a licensee.
- (8) For the purposes of this Part but subject to section 171A, a person has a substantial interest in a corporation if the person—
- (a) is entitled to more than 5% of the voting shares in the corporation; or
 - (b) is entitled to shares in the corporation that confer or, if a dividend were declared or a distribution of profits were made by the corporation, would confer a right to receive the benefit of more than 5% of the dividend or distribution; or
 - (c) is entitled to shares in the corporation that confer or, in the event of any other distribution of property or rights by the corporation, whether on dissolution or otherwise, would confer an entitlement to receive the benefit of more than 5% of the property and rights.
- (9) For the purposes of this Part, a person is entitled to generating capacity if—
- (a) by virtue of ownership of, or an interest in, land or other property or rights, the person can generate electricity for supply or sale in Victoria; or
 - (b) by virtue of a relevant agreement, the person can require electricity to be made available to
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it for supply or sale in Victoria (otherwise than through the wholesale electricity market operated and administered by VPX); or

- (c) the person has a traced interest in generating capacity to which another person, being a corporation, is entitled as provided by paragraph (a) or (b)—

and the amount of generating capacity to which a person is entitled is—

- (d) in the case of paragraph (a), the installed or name-plate generating capacity of the relevant facilities which generate the electricity; and
- (e) in the case of paragraph (b), the amount that, under the relevant agreement, the person can require to be made available to it for supply or sale in Victoria; and
- (f) in the case of paragraph (c), the aggregate of the entitlements to generating capacity of all corporations in whose entitlements to generating capacity the person has a traced interest as determined in accordance with sub-section (10).

- (9A) A person is not, under sub-section (9), entitled to generating capacity if the entitlement arises only because of the person's traced interest in generating capacity of a licensee or because the person and a licensee are parties to a relevant agreement.

S. 171(9A)
inserted by
No. 48/1996
s. 13(2).

- (10) For the purposes of this Part, a person's traced interest in generating capacity to which a corporation is entitled is calculated as follows—

- (a) if the person has a direct interest in the corporation, the corporation's entitlement to

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- generating capacity is multiplied by that direct interest;
- (b) if the person holds an interest in the corporation through a chain of corporations each of which is referred to in this section as an "interposed entity"—
- (i) the direct interest of the person in the first interposed entity is multiplied by the direct interests of each interposed entity in the next interposed entity in the chain until, and including, the last interposed entity's direct interest in the corporation; and
 - (ii) the product of that multiplication is multiplied by the corporation's entitlement to generating capacity;
- (c) if the person holds an interest in the corporation through two or more chains of corporations, the person's traced interests in the corporation's entitlement to generating capacity calculated through each chain in accordance with paragraph (b) are added together;
- (d) if the person holds a direct interest in the corporation and an interest in the corporation through one or more chains of corporations, the person's traced interest in the corporation's entitlement to generating capacity calculated in accordance with paragraph (a) and the person's traced interests in the corporation's entitlement to generating capacity calculated through each chain in accordance with paragraph (b) are added together.
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- (11) For the purposes of this Part, in calculating the traced interest of a person in a corporation's entitlement to generating capacity, any direct interest of an interposed entity in that person must be disregarded.
- (12) For the purposes of this Part, the direct interest of a person in the corporation referred to in subsection (10)(a) or in the corporation that is the next interposed entity in a chain is—
- (a) the number of voting shares in the corporation to which the person is entitled, expressed as a fraction of all voting shares in the corporation; or
 - (b) if the person is entitled to shares in the corporation that confer, or if a dividend were declared or a distribution of profits were made by the corporation would confer, a right to receive a share of the dividend or distribution, that share of the dividend or distribution expressed as a fraction of the total dividend or distribution; or
 - (c) if the person is entitled to shares in the corporation that confer, or in the event of any other distribution of property or rights by the corporation, whether on dissolution or otherwise, would confer, an entitlement to receive a share of the property or rights, that share of the property or rights expressed as a fraction of the total property or rights; or
 - (d) if the person is able, whether alone or in concert with another, and whether by any act or omission or otherwise, to dominate or control—
 - (i) the corporation; or
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- (ii) the financial and operating policies or management of the corporation; or
- (iii) the activities of the corporation—
the number 1—

whichever is the highest.

- (13) In calculating a person's direct interest in a corporation for the purposes of sub-section (10)(a), the person's entitlement to shares in the corporation in which an interposed entity in the chain has a relevant interest must be disregarded.
- (14) If the Office is of the opinion that the calculation of a person's traced interest in generating capacity of a corporation involves duplication, the Office may determine that any one or more specified interests must be disregarded.

171AA. *Application of Part to partnerships*

- (1) In this section—
 - "partner"** includes member of an unincorporated joint venture;
 - "partnership"** includes unincorporated joint venture.
- (2) This Part applies to partnerships, and partners, as if a partnership were a corporation and a partner were a member of a corporation.
- (3) For the purposes of this Part—
 - (a) a partnership is deemed to be a corporation and a person;
 - (b) a partner is deemed—
 - (i) to be a member of the corporation; and
 - (ii) to hold shares bearing the same proportion to all the shares in the corporation as the partner's right to

S. 171AA
inserted by
No. 48/1996
s. 14.

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s. 171A

receive a distribution of profits of the partnership bears to the sum of the rights of partners to receive such distributions;

- (c) rights and powers of a partner in respect of the partnership, including voting rights and rights to dispose of interests in the partnership or the partnership property are deemed to be rights and powers of a member of a corporation attached to and conferred by that member's shares in the corporation;
 - (d) the committee of management (by whatever name called) of a partnership is deemed to be the board of directors of the partnership;
 - (e) a meeting of the partners of a partnership is deemed to be a general meeting of a corporation.
- (4) For the purposes of this Part and its application to a partnership, "**licensee**" includes a partnership the members of which are the holders of a licence to generate electricity for supply or sale or to distribute or supply electricity.

171A. *Certain shareholders agreements to be disregarded*

For the purposes of determining under this Part whether a person has a controlling interest or a substantial interest in a licensee, a relevant interest of an associate of the person must be disregarded if the Treasurer certifies in writing that the Treasurer is satisfied—

- (a) that the association arises solely under section 12(1)(e) or section 15(1) of the Corporations Law by virtue of provisions of the articles of association or other constituent documents of a corporation or other entity, a shareholders' agreement or other consortium

S. 171A
 inserted by
 No. 79/1995
 s. 16.

S. 171A(a)
 amended by
 No. 48/1996
 s. 15.

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arrangements and that the provisions are not unusual having regard to conventional or usual investment considerations;

- (b) that the person or any related corporation does not have the power—
- (i) to control or influence the composition of the board of directors of the licensee otherwise than by control of the exercise at a general meeting of the licensee of voting rights in respect of particular shares or a particular proportion of shares in the licensee or the exercise of powers of appointment of a specified number of directors of the licensee; or
 - (ii) to control or influence the conduct of affairs of the licensee otherwise than by control of the exercise at a general meeting of the licensee of voting rights in respect of particular shares or a particular proportion of shares in the licensee or by the actions of directors appointed by the person.

171B. *Certain "see-through" interests to be disregarded*

For the purpose of determining under this Part whether a person has a controlling interest or a substantial interest in a licensee, a relevant interest that the person has solely by virtue of section 32(c) or 33 of the Corporations Law must be disregarded if the Treasurer certifies in writing—

- (a) that the Treasurer is satisfied that the person or any related corporation of the person does not have the power—
- (i) to control or influence the composition of the board of directors of the licensee

s. 171B
inserted by
No. 79/1995
s. 16.

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- otherwise than by controlling the exercise at a general meeting of the licensee of not more than 20 per centum of the votes that may be cast at general meetings or exercising powers of appointment of not more than one-fifth of the directors of the licensee; or
- (ii) to control or influence the conduct of affairs of the licensee otherwise than by controlling the exercise at a general meeting of the licensee of voting rights in respect of not more than 20 per centum of the voting shares or by the actions of directors appointed by it being not more than one-fifth of the directors of the licensee; and
- (b) that the Treasurer is satisfied that—
- (i) in the case of determining whether the person has a controlling interest, the person does not have—
- (A) the power to exercise the votes in respect of, or to control the disposal of, more than 20 per centum of the voting shares in the licensee, not including a right of pre-emption whether direct or indirect in relation to those shares; or
- (B) the right to receive directly or indirectly the benefit of more than 20 per centum of the dividends declared or distribution of profits made by the licensee in respect of a financial year of the licensee; or

- (C) the right to receive directly or indirectly the benefit of more than 20 per centum of the property and rights of the licensee on a dissolution or otherwise; or
- (ii) in the case of determining whether the person has a substantial interest, the person does not have—
 - (A) the power to exercise the votes in respect of, or to control the disposal of, more than 5 per centum of the voting shares in the licensee, other than a right of pre-emption whether direct or indirect in relation to those shares; or
 - (B) the right to receive directly or indirectly the benefit of more than 5 per centum of the dividends declared or distribution of profits made by the licensee in respect of a financial year of the licensee; or
 - (C) the right to receive directly or indirectly the benefit of more than 5 per centum of the property and rights of the licensee on a dissolution or otherwise.

171C. *Effect of certificate under section 171A or 171B*

A certificate of the Treasurer under section 171A or 171B continues to have effect unless the Office determines that—

- (a) a change has occurred in respect of the matters to which the certificate relates; and
- (b) the certificate ceases to have effect.

s. 171C
inserted by
No. 79/1995
s. 16.

172. Application and construction of Part

S. 172
inserted by
No. 56/1995
s. 36.

- (1) This Part (including any provision of the Corporations Law referred to or applied for the purposes of this Part) applies in relation to any transaction, agreement, arrangement, understanding or undertaking—
 - (a) whether the transaction, agreement, arrangement, understanding or undertaking is entered into, or made, in this State or elsewhere; and
 - (b) whether the shares (if any) to which the transaction, agreement, arrangement, understanding or undertaking relates are registered in this State or elsewhere; and
 - (c) whether the proper law of the transaction, agreement, arrangement, understanding or undertaking is the law of this State or not.
- (2) This Part is relevant legislation for the purposes of the **Office of the Regulator-General Act 1994**.

173. Prohibited interests

S. 173
inserted by
No. 56/1995
s. 36.

- (1) It is unlawful for a person to hold a prohibited interest.
- (2) Subject to sub-section (7), a licensee holds a prohibited interest if the licensee—
 - (a) has a controlling interest in one or more other licensees; or
 - (b) has a substantial interest in 2 or more other licensees.
- (3) Subject to sub-sections (5), (6) and (7), a person, not being a licensee, holds a prohibited interest if the person—
 - (a) has a controlling interest in 2 or more licensees; or

S. 173(4)
 amended by
 No. 48/1996
 s. 16(1)(a)(b).

S. 173(5)
 substituted by
 No. 8/1996
 s. 16(1).

S. 173(5A)
 inserted by
 No. 8/1996
 s. 16(1).

S. 173(6)
 amended by
 No. 8/1996
 s. 16(2).

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- (b) has a substantial interest in 3 or more licensees; or
 - (c) has a controlling interest in one licensee and a substantial interest in 2 licensees.
- (4) A distribution company or a person who has a controlling interest in a distribution company holds a prohibited interest if the company or person is entitled, whether or not through a traced interest, to generating capacity of more than 200 megawatts.
- (5) A person, not being a licensee, does not hold a prohibited interest within the meaning of sub-section (3) because the person has a controlling interest in 2 or more licensees or a substantial interest in 3 or more licensees if—
- (a) the Office is satisfied that each such interest is held only as a passive institutional investment; and
 - (b) the Office determines in writing that the person does not hold a prohibited interest.
- (5A) The Office may make a determination under sub-section (5) with effect from 1 March 1996, or such later date as is specified in the determination, in relation to the holding of an interest before the commencement of section 16 of the **Electricity Industry (Amendment) Act 1996**.
- (6) At any time after a determination is made under sub-section (5) in relation to a person, the Office may, by notice in writing served on that person, determine that circumstances have changed so that it is no longer satisfied as to the matters set out in sub-section (5)(a) in relation to the person and that the person has a prohibited interest within the meaning of sub-section (3).
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s. 173A

- (7) On and after 1 January 2001, a person does not hold a prohibited interest within the meaning of sub-section (2) or (3) if—
- (a) the Office is satisfied that, were a person to hold such a prohibited interest, it would not be likely substantially to lessen competition in a market in which electricity is bought and sold in Victoria, whether or not that market extends beyond Victoria; and
 - (b) the Office so determines in writing.
- (8) For the purposes of this Part—
- (a) a licensee is not capable of having a prohibited interest in itself; and
 - (b) if 2 or more licensees are carrying on activities under their licences in the same business undertaking, one of those licensees is not capable of having a prohibited interest in another of those licensees.

S. 173(8)
substituted by
No. 48/1996
s. 16(2).

173A. *Temporary exemption from prohibition*

- (1) The Treasurer may, in writing given to the Office, declare that a specified person does not, by reason only of having a specified controlling interest or specified substantial interest, have a prohibited interest during a specified period ending not more than 6 months after the day on which the declaration is made.
- (2) A declaration under sub-section (1) may be made subject to such conditions as are specified in it.
- (3) A declaration under this section has effect according to its terms and ceases to have effect—
 - (a) at the end of the specified period; or
 - (b) upon a breach of a condition to which it is expressed to be subject.

S. 173A
inserted by
No. 55/1997
s. 15.

S. 174
inserted by
No. 56/1995
s. 36.

174. Power to require information relating to interests

(1) The Office may, by notice in writing served on a person who is, or is suspected by the Office of being—

- (a) entitled to shares in a licensee; or
- (b) the holder of a controlling interest or substantial interest in a licensee; or
- (c) entitled to generating capacity—

require the person to furnish information specified in the notice for the purpose of determining whether that person or any other person has, or is taking action to acquire, a prohibited interest.

(2) A notice under sub-section (1) may require the person on whom the notice is served or, if that person is a corporation, 2 directors of the corporation, to verify by statutory declaration any information furnished in compliance with the notice.

(3) If—

- (a) a person on whom a notice under sub-section (1) has been served fails to furnish, within the time allowed in the notice, the information required by the notice, verified as required by the notice; or
- (b) information furnished by the person in response to the notice is, in the opinion of the Office, by reason of anything included in it or omitted from it, false or misleading in a material particular—

the Office may, by reason only of that fact, by notice in writing served on a person, do one or more of the following—

- (c) determine that the person is an associate of another, or that another is an associate of that person;
- (d) determine that the person, or another to whom a determination under paragraph (c) relates, is entitled to specified shares in a licensee;
- (e) determine that the voting rights attaching to all or any of the shares to which a determination under paragraph (d) relates are suspended;
- (f) determine that a person is entitled to generating capacity;
- (g) determine that the person, or another to whom a determination under paragraph (c) relates, has a prohibited interest.

175. *Disposal of interest*

(1) If the Office—

(a) makes a determination under section 174(3);
 or

(b) forms the opinion—

that a person (in this section referred to as "the offender") has a prohibited interest, the Office may, by notice in writing served—

- (c) if the offender holds shares to which the offender is entitled—on the offender; or
- (d) on any other person who holds shares to which the offender is entitled; or
- (e) if the offender is entitled to generating capacity, on the offender—

determine that the offender or that other person must dispose of the relevant shares otherwise than

S. 175
 inserted by
 No. 56/1995
 s. 36.

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to an associate of the offender, within a period specified in the notice, being not less than 3 months after service of the notice, and that, until those shares are disposed of, the voting rights attaching to all or to specified shares in a licensee to which the offender is entitled are suspended.

- (2) For the purposes of sub-section (1), the relevant shares that a person may be required by a notice under that sub-section to dispose of otherwise than to an associate of the offender are—
- (a) subject to paragraph (b), any shares held by the person that would need to be so disposed of in order to cause the offender to cease to have a prohibited interest; or
 - (b) if, after all the shares held by the person to which the offender is entitled were so disposed of, the offender would continue to have a prohibited interest—the total number of those shares.
- (3) For the purposes of this section a person is not to be taken to have disposed of shares to which an offender is entitled unless and until the person ceases to hold the shares and the offender ceases to be entitled to the shares.
- (4) If a person served with a notice of a determination under sub-section (1) requiring the person to dispose of shares fails to comply with the notice within the period specified in the notice, the shares last registered in the name of that person that caused the person to have a prohibited interest and specified by the Office by notice in writing served on the person are, by force of this sub-section, forfeited to the State.

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s. 175

(4A) If—

- (a) a person served with a notice of a determination under sub-section (1) requiring the person to dispose of shares fails to comply with the notice within the period specified in the notice; and
- (b) the person is a member of a partnership and the shares are an interest in the partnership; and
- (c) the person is one of 2 or more persons constituting a licensee—

S. 175(4A)
inserted by
No. 48/1996
s. 17(1).

the Office may, by notice in writing given to the licensee, revoke the licence.

* * * * *

S. 175(5)(6)
repealed by
No. 48/1996
s. 17(2)(a).

(7) The Office must cause written notice of—

- (a) a determination under sub-section (1) requiring a person to dispose of shares in a licensee; or

* * * * *

S. 175(7)(b)
repealed by
No. 48/1996
s. 17(2)(b).

- (c) a determination under section 174(3)(e) that a person's voting rights are suspended—

to be served on the relevant person.

(8) If the Office—

- (a) makes a determination under section 174(3); or

- (b) forms the opinion—

that a person (in this section referred to as "the offender") has a prohibited interest because of the

S. 175(8)
inserted by
No. 48/1996
s. 17(3).

circumstances referred to in section 171(7)(d), the Office may, by notice in writing served on the offender, determine that the offender—

- (c) must desist from dominating or controlling the relevant corporation, the financial and operating policies or management of the corporation or the activities of the corporation as a licensee; and
- (d) must terminate a relevant agreement—

to the extent necessary to prevent it having a prohibited interest, within a period specified in the notice, not being less than 3 months after service of the notice.

176. *Voting rights in respect of certain shares*

If written notice is served on a licensee of a declaration of the Office under this Part—

- (a) that a person is an associate of another; or
- (b) that a person has a prohibited interest in a licensee; or
- (c) that voting rights are suspended—

the determination is binding and has effect for the purposes of the application of this Part in relation to any general meeting of the licensee held after receipt by the licensee of the notice.

177. *Revocation of licence*

- (1) If the Office makes a determination under section 174(3), or forms the opinion under section 175(1), that a licensee has a prohibited interest because of its entitlement to generating capacity, the Office may by notice in writing served on the licensee determine that the licensee dispose of an interest in land or other property or rights, or terminate a relevant agreement, to the extent necessary to

S. 176
inserted by
No. 56/1995
s. 36.

S. 177
inserted by
No. 56/1995
s. 36.

prevent it having a prohibited interest within a period specified in the notice, not being less than 3 months after the service of the notice.

- (2) If a licensee does not comply with a determination under sub-section (1), the Office may by notice in writing given to the licensee, revoke the licence.

178. *Annulment of certain resolutions of licensee*

- (1) If the Office is of the opinion that a resolution of a general meeting of the licensee has been passed as a result of the admission of votes that should not, by virtue of a declaration of the Office under section 174(3) or 175(1) have been admitted, the Office may, by notice in writing served on the licensee, declare the resolution to have been (at all times) null and void.
- (2) If notice of a declaration under sub-section (1) is served on a licensee, the Office must, at the same time or as soon as practicable thereafter, cause written notice of the declaration to be served on each person whose votes should not, in the opinion of the Office, have been admitted.
- (3) A notice under sub-section (1) does not have any effect unless it is served on the licensee within one month after the date of the resolution to which it relates.

S. 178
inserted by
No. 56/1995
s. 36.

179. *Making, review and revocation of determination by Office*

- (1) A determination may be made by the Office under this Part on the basis of such information as the Office considers sufficient in the circumstances.
- (2) A determination of the Office under this Part is effective when written notice is served on the relevant person.

S. 179
inserted by
No. 56/1995
s. 36.

S. 180
inserted by
No. 56/1995
s. 36.

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- (3) Notwithstanding that an application is made under section 37 of the **Office of the Regulator-General Act 1994** for review of a determination of the Office under this Part, the determination continues to have effect pending determination of the application except as otherwise determined by the Office.
 - (4) The Office may, by notice in writing served on the person on whom notice of the determination was served, revoke or vary a determination of the Office under this Part with effect from the date of the determination or some other date determined by the Office.

180. Appeal against determination of Office

- (1) Despite anything to the contrary in the **Office of the Regulator-General Act 1994**, a person on whom notice of a determination of the Office is served under this Part may appeal to the Supreme Court against the determination.
- (2) An appeal under this section must be instituted within 21 days after notice of the determination under appeal is served on the appellant and that period of limitation may not be extended.
- (3) The Supreme Court may, on an appeal under this section, if satisfied that proper grounds for making the determination did not exist, quash or vary the determination, either conditionally or unconditionally and with effect from the date of the determination or some other date, as the Court thinks fit, and make any consequential or ancillary orders that may be just.
- (4) Notwithstanding an appeal under this section, a determination other than—

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s. 181

(a) a determination under section 175(1) requiring a person to dispose of shares in the licensee; or

(b) a determination under section 175(4) that shares in the licensee are forfeited to the State—

S. 180(4)(b)
amended by
No. 48/1996
s. 18(a).

continues to have effect pending determination of the appeal.

(5) Except as provided in this Part, a determination of the Office under this Part may not be challenged or called into question.

181. *Sale of forfeited shares*

S. 181
inserted by
No. 56/1995
s. 36.

(1) The Office is to sell any shares forfeited to the State under this Part.

(2) For the purposes of any such sale, the Office is not bound by any restriction on the sale of shares whether contained in the memorandum or articles of association of the licensee or in any other document.

S. 181(2)
amended by
No. 79/1995
s. 17.

(3) Any money realised from the sale of forfeited shares under this section must, after deduction of the reasonable costs of the forfeiture and sale be paid to the person from whom the shares were forfeited.

S. 181(3)
amended by
No. 48/1996
s. 18(b).

182. *Service*

S. 182
inserted by
No. 56/1995
s. 36.

A notice required or authorised by this Part to be served on a person may—

(a) in the case of a natural person—

(i) be served personally on the person; or

(ii) be sent by post to the person at his or her last known place of residence, business or employment; or

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- (b) in the case of a company or other body—be left at, or sent by post to, its registered office or a place of business of the company or body whether within the State or elsewhere.
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PART 14—LATROBE VALLEY LAND

Pt 14
 (Headings
 and ss 183–
 197) inserted
 by No.
 56/1995 s. 37.

Division 1—Surrender of land

183. *Surrender of land to Crown*

S. 183
 inserted by
 No. 56/1995
 s. 37.

By force of this section—

- (a) the whole of the land described in the folios of the Register set out in Table A of Part 1 of Schedule 3A and the whole of the land described in the former certificates of title set out in Table B of Part 1 of Schedule 3A—
 - (i) is divested from Generation Victoria, SEC, Yallourn Energy Limited A.C.N. 065 325 224 and Hazelwood Power Corporation Limited A.C.N. 065 381 204; and
 - (ii) reverts to the Crown; and
 - (iii) subject to section 184, is deemed to be unalienated Crown land freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
- (b) the folios of the Register set out in Table A of Part 1 of Schedule 3A and the folio of the Register describing the land formerly contained in Certificate of Title Volume 9819 folio 592 are revoked.

184. *Preservation of leases*

S. 184
 inserted by
 No. 56/1995
 s. 37 (as
 amended by
 No. 79/1995
 s. 28).

- (1) In this section "**lease**" includes an agreement, licence or other interest arising under or in relation to a lease whether or not the lease has expired and

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Act No. 130/1993

an interest in the nature of a lease and "**sub-lease**" has a corresponding meaning.

- (2) Section 183 does not affect the status or continuity of any lease of land specified in Part 2 of Schedule 3A and existing immediately before the commencement of section 37 of the **Electricity Industry (Amendment) Act 1995** and that lease has effect—
- (a) as a lease between the Minister administering the **Land Act 1958** as lessor and the lessee for the time being under the lease, as if it had been assigned to the Minister; and
 - (b) as if it referred to the Minister instead of to the lessor (however described).
- (3) Section 183 does not affect the status or continuity of any sub-lease existing over the land affected by a lease specified in Part 2 of Schedule 3A at the date of commencement of section 37 of the **Electricity Industry (Amendment) Act 1995**.
- (4) Subject to sub-section (5), the issue of a Crown grant of any land affected by a lease specified in Part 2 of Schedule 3A and existing immediately before the date of issue of the Crown grant does not affect the status or continuity of the lease of that land and that lease has effect on and from the issue of the Crown grant—
- (a) as a lease between the person to whom the Crown grant is made as lessor and the lessee for the time being under the lease, as if it had been assigned to the person to whom the Crown grant is made; and
 - (b) as if the lease referred to the person to whom the Crown grant is made instead of to the lessor (however described).

-
- (5) If more than one Crown grant is issued of any land affected by a lease specified in Part 2 of Schedule 3A and existing immediately before the date of issue of the Crown grants, the issue of the Crown grants does not affect the status or continuity of the lease of that land and that lease has effect on and from the issue of the Crown grants—
- (a) as a lease between the persons to whom the respective Crown grants are made as joint lessors and the lessee for the time being under the lease, as if it had been assigned jointly to the persons to whom the respective Crown grants are made; and
 - (b) as if the lease referred to the persons to whom the respective Crown grants are made instead of to the lessor (however described).
- (6) The issue of a Crown grant in respect of any land affected by a lease specified in Part 2 of Schedule 3A does not affect the status or continuity of any sub-lease existing over that land at the time of the issue of the Crown grant in respect of that land.
- (7) This section has effect despite anything to the contrary in any Act or law or in a Crown grant of the land.
- (8) Nothing effected by this section is to be regarded as placing any person in breach of or as constituting a default under any provision of a lease, including any provision prohibiting, restricting or regulating the assignment of the lease.

185. *Preservation of SEC easement*

Any easement vested in SEC which is expressed in any instrument to be appurtenant to the land described in Crown Grant Volume 5097 folio 351 is deemed, despite anything to the contrary in that

S. 185
inserted by
No. 56/1995
s. 37.

first-mentioned instrument, on and after the commencement of section 37 of the **Electricity Industry (Amendment) Act 1995** to be and always to be an easement vested in SEC and appurtenant to the lands vested in SEC for the time being and from time to time and to every part thereof.

186. PTC land to be surrendered

By force of this section—

- (a) the lands remaining in folios of the Register Volume 8099 folio 786 and Volume 8456 folio 416—
 - (i) are divested from the Public Transport Corporation; and
 - (ii) revert to the Crown; and
 - (iii) are deemed to be unalienated Crown land freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
- (b) folios of the Register Volume 8099 folio 786 and Volume 8456 folio 416 are revoked.

187. Certain residual lands to be surrendered to the Crown

(1) By force of this section—

- (a) the lands remaining in folios of the Register Volume 6650 folio 968, Volume 7241 folio 102 and Volume 7128 folio 520—
 - (i) are deemed to be surrendered to the Crown; and
 - (ii) are deemed to be unalienated Crown land freed and discharged from all trusts, limitations, reservations,

restrictions, encumbrances, estates and interests; and

- (iii) cease to be roads and parts of roads and, in addition to the provisions of sub-paragraph (ii), all rights, easements and privileges existing or claimed in the land either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise cease; and
- (b) folios of the Register Volume 6650 folio 968, Volume 7241 folio 102 and Volume 7128 folio 520 are revoked.
- (2) Yallourn Energy Limited A.C.N. 065 325 224 is liable to pay compensation for any loss or damage suffered as a result of the surrender of land to the Crown under sub-section (1) to any person who immediately before the commencement of section 37 of the **Electricity Industry (Amendment) Act 1995** was the registered proprietor of the land.
- (3) The amount of compensation payable to a person under sub-section (2) shall be—
 - (a) the amount agreed between Yallourn Energy Limited A.C.N. 065 325 224 and the person; or
 - (b) if agreement is not reached, the amount determined as if the amount of compensation payable were a disputed claim under Part 10 of the **Land Acquisition and Compensation Act 1986**.

Division 2—Revocation of reservations and closure of roads

188. *Revocation of reservations—Morwell West land*

- (1) The Order in Council specified in item 1 of Part 3 of Schedule 3A is revoked.
- (2) The Order in Council specified in item 2 of Part 3 of Schedule 3A is revoked.
- (3) The Order in Council specified in item 3 of Part 3 of Schedule 3A is revoked.

189. *Revocation of reservations—Hernes Oak land*

- (1) The Order in Council specified in item 4 of Part 3 of Schedule 3A is revoked.
- (2) The Order in Council specified in item 5 of Part 3 of Schedule 3A is revoked.

190. *Revocation of reservation—La Trobe river*

The Order in Council specified in item 6 of Part 3 of Schedule 3A, insofar as it applies to the land delineated and coloured light green on a plan lodged in the Central Plan Office of the Department of Treasury and Finance and numbered LEGL/95–69, is revoked.

191. *Revocation of reservation—Morwell river*

The Order in Council specified in item 7 of Part 3 of Schedule 3A, insofar as it applies to the land delineated and coloured light green on the plans lodged in the Central Plan Office of the Department of Treasury and Finance and numbered LEGL/95–69 and LEGL/95–71, is revoked.

192. *Consequences of revoking a reservation*

On the revocation by this Division of an Order in Council reserving land—

S. 188
inserted by
No. 56/1995
s. 37.

S. 189
inserted by
No. 56/1995
s. 37.

S. 190
inserted by
No. 56/1995
s. 37.

S. 191
inserted by
No. 56/1995
s. 37.

S. 192
inserted by
No. 56/1995
s. 37.

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- (a) the land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests;
 - (b) the appointment of any committee of management is revoked to the extent that it applies to the land;
 - (c) any regulations made under section 13 of the **Crown Land (Reserves) Act 1978** are revoked to the extent that they apply to the land.

193. *Rights to cease*

The lands delineated and coloured blue on the plans lodged in the Central Plan Office of Department of Treasury and Finance and numbered LEGL/95-69 and LEGL/95-70 cease to be roads or parts of roads and all rights, easements and privileges existing or claimed in the land either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise cease.

S. 193
inserted by
No. 56/1995
s. 37.

194. *Powers to lease in relation to certain Latrobe River land*

- (1) Despite anything to the contrary in section 17D of the **Crown Land (Reserves) Act 1978**, a lease may be granted under that section in respect of any part of the Latrobe River land for a period of up to 50 years for such purposes as the Minister administering that Act determines.
- (2) Nothing in the **Crown Land (Reserves) Act 1978** prevents a lessee of any part of the Latrobe River land from sub-letting that land provided the consent of the Minister administering that Act is first obtained.

S. 194
inserted by
No. 56/1995
s. 37.

- (3) In this section "**Latrobe River land**" means—
- (a) the bed and banks of the Latrobe River from the point 50 metres upstream of the centre of the Yallourn Storage Dam to the confluence of the Latrobe River and Andersons Creek, Yallourn; and
 - (b) any area of reserved Crown land on either side of the banks of that section of the Latrobe River whether reserved before or after the commencement of section 37 of the **Electricity Industry (Amendment) Act 1995**.

Division 3—General

195. *Issue of Crown grant*

- (1) The Governor in Council, on behalf of the Crown, may grant to Yallourn Energy Limited A.C.N. 065 325 224, Hazelwood Power Corporation Limited A.C.N. 065 381 204 or the State Electricity Commission of Victoria for an estate in fee simple—
 - (a) any unalienated Crown land that is not reserved under the **Crown Land (Reserves) Act 1978**; or
 - (b) any land that reverts or is surrendered to the Crown under this Part.
- (2) A Crown grant under this section is subject to any terms, conditions, covenants, exceptions, reservations and limitations that the Governor in Council may determine.
- (3) A Crown grant under this section may make any adjustments necessary to correct any defect in boundaries found on survey.

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s. 196

- (4) A Crown grant under this section may provide for the land to be granted as to the surface and down to a depth specified in the grant being a depth below the surface of not more than 300 metres.

196. Registrar-General and Registrar of Titles to make necessary amendments to records

S. 196
inserted by
No. 56/1995
s. 37.

- (1) The Registrar-General, on being requested to do so, must make all entries on the records of enrolment of any Crown Grant and on any memorial relating to land that are necessary because of the operation of any provision of this Part.
- (2) The Registrar of Titles, on being requested to do so, must make any amendments to the Register under the **Transfer of Land Act 1958** that are necessary because of the operation of any provision of this Part.

197. Exemption from stamp duty and other taxes

S. 197
inserted by
No. 56/1995
s. 37.

No stamp duty or other tax is chargeable under any Act in respect of anything done under this Part or in respect of any act or transaction connected with or necessary to be done by reason of this Part.

Pt 15
(Headings
and ss 198–
206) inserted
by No.
79/1995 s. 18.

PART 15—LOY YANG LAND

Division 1—Surrender of land

S. 198
inserted by
No. 79/1995
s. 18.

198. *Surrender of land to Crown*

By force of this section—

- (a) the whole of the land described in the folios of the Register set out in Table A of Part 1 of Schedule 3B and the whole of the land described in the former certificates of title set out in Table B of Part 1 of Schedule 3B—
 - (i) is divested from Generation Victoria, SEC and Loy Yang Power Limited A.C.N. 065 381 240; and
 - (ii) reverts to the Crown; and
 - (iii) subject to sections 199 and 200, is deemed to be unalienated Crown land freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
- (b) the folios of the Register set out in Table A of Part 1 of Schedule 3B are revoked.

S. 199
inserted by
No. 79/1995
s. 18.

199. *Preservation of leases*

- (1) In this section "**lease**" includes an agreement, licence or other interest arising under or in relation to a lease whether or not the lease has expired and an interest in the nature of a lease and "**sub-lease**" has a corresponding meaning.
- (2) Section 198 does not affect the status or continuity of any lease of land specified in Part 2 of Schedule

3B and existing immediately before the commencement of section 18 of the **Electricity Industry (Further Amendment) Act 1995** and that lease has effect—

- (a) as a lease between the Minister administering the **Land Act 1958** as lessor and the lessee for the time being under the lease, as if it had been assigned to the Minister; and
 - (b) as if it referred to the Minister instead of to the lessor (however described).
- (3) Section 198 does not affect the status or continuity of any sub-lease existing over the land affected by a lease specified in Part 2 of Schedule 3B at the date of commencement of section 18 of the **Electricity Industry (Further Amendment) Act 1995**.
- (4) Subject to sub-section (5), the issue of a Crown grant of any land affected by a lease specified in Part 2 of Schedule 3B and existing immediately before the date of issue of the Crown grant does not affect the status or continuity of the lease of that land and that lease has effect on and from the issue of the Crown grant—
- (a) as a lease between the person to whom the Crown grant is made as lessor and the lessee for the time being under the lease, as if it had been assigned to the person to whom the Crown grant is made; and
 - (b) as if the lease referred to the person to whom the Crown grant is made instead of to the lessor (however described).
- (5) If more than one Crown grant is issued of any land affected by a lease specified in Part 2 of Schedule 3B and existing immediately before the date of issue of the Crown grants, the issue of the Crown

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grants does not affect the status or continuity of the lease of that land and that lease has effect on and from the issue of the Crown grants—

- (a) as a lease between the persons to whom the respective Crown grants are made as joint lessors and the lessee for the time being under the lease, as if it had been assigned jointly to the persons to whom the respective Crown grants are made; and
 - (b) as if the lease referred to the persons to whom the respective Crown grants are made instead of to the lessor (however described).
- (6) The issue of a Crown grant in respect of any land affected by a lease specified in Part 2 of Schedule 3B does not affect the status or continuity of any sub-lease existing over that land at the time of the issue of the Crown grant in respect of that land.
- (7) This section has effect despite anything to the contrary in any Act or law or in a Crown grant of the land.
- (8) Nothing effected by this section is to be regarded as placing any person in breach of or as constituting a default under any provision of a lease, including any provision prohibiting, restricting or regulating the assignment of the lease.

200. *Certain interests not affected by surrender and grant of land*

- (1) Section 198 does not affect the status or continuity of any easement or restrictive covenant granted or given under or pursuant to an agreement referred to in Part 3 of Schedule 3B and existing immediately before the commencement of section 18 of the **Electricity Industry (Further Amendment) Act 1995** and for that purpose the

S. 200
inserted by
No. 79/1995
s. 18.

easement or restrictive covenant is deemed to have been granted or given by the Minister administering the **Land Act 1958**.

- (2) The issue of a Crown grant of any land affected by any easement or restrictive covenant granted or given under an agreement referred to in Part 3 of Schedule 3B and existing immediately before the date of issue of the Crown grant does not affect the status or continuity of that easement or restrictive covenant and for that purpose the easement or restrictive covenant is deemed to have been granted or given by the Crown grantee of the land.
- (3) A caveat in the same terms and to the same effect as a caveat referred to in Part 3 of Schedule 3B in respect of land is deemed to have been relodged under the **Transfer of Land Act 1958** immediately after a Crown grant of that land is issued under this Part.
- (4) On being notified of the issue of a Crown grant of land over which a caveat is deemed under subsection (3) to be relodged, the Registrar of Titles must make any recordings in the Register under the **Transfer of Land Act 1958** that are necessary to give particulars of that caveat in respect of that land.
- (5) This section has effect despite anything to the contrary in the **Transfer of Land Act 1958** or any other Act or law or in a Crown grant of the land.
- (6) Nothing in this section makes the Crown a party to any agreement referred to in Part 3 of Schedule 3B or affects the status or operation of that agreement.
- (7) Nothing effected by this section or done under this section—

- (a) is to be regarded as placing the Crown or another person in breach of contract or confidence or as otherwise making either of them guilty of a civil wrong;
- (b) is to be regarded as placing either of them in breach of or as constituting a default under any Act or other law or any provision in any agreement, arrangement or understanding including, without limiting the generality of the foregoing, any provision prohibiting, restricting or regulating the assignment or transfer of any property or the disclosure of any information; or
- (c) is to be regarded as fulfilling any condition which allows a person to exercise a right or remedy in respect of or to terminate any agreement or obligation; or
- (d) releases any surety or other obligee wholly or in part from any obligation.

201. *La Trobe Shire Council land to be surrendered*

By force of this section—

- (a) the whole of the land described in folio of the Register Volume 5677 folio 326—
 - (i) is divested from La Trobe Shire Council; and
 - (ii) reverts to the Crown; and
 - (iii) is deemed to be unalienated Crown land freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
- (b) folio of the Register Volume 5677 folio 326 is revoked.

S. 201
inserted by
No. 79/1995
s. 18.

Division 2—Revocation of reservation and closure of roads

202. *Revocation of reservation—mechanics institute*

- (1) The Order in Council specified in Part 4 of Schedule 3B is revoked.
- (2) Crown grant Volume 3421 folio 119 is revoked.
- (3) On the revocation by this section of an Order in Council reserving land—
 - (a) the land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests;
 - (b) any regulations made under section 13 of the **Crown Land (Reserves) Act 1978** are revoked to the extent that they apply to the land.

S. 202
inserted by
No. 79/1995
s. 18.

203. *Rights in roads to cease*

The lands delineated and coloured blue on the plan lodged in the Central Plan Office of the Department of Treasury and Finance and numbered LEGL./95–85 cease to be roads or parts of roads and all rights, easements and privileges existing or claimed in the land either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise cease.

S. 203
inserted by
No. 79/1995
s. 18.

Division 3—General

204. *Issue of Crown grant*

S. 204
inserted by
No. 79/1995
s. 18.

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- (1) The Governor in Council, on behalf of the Crown, may grant to Loy Yang Power Limited A.C.N. 065 381 240 or SEC for an estate in fee simple—
 - (a) any unalienated Crown land that is not reserved under the **Crown Land (Reserves) Act 1978**; or
 - (b) any land that reverts or is surrendered to the Crown under this Part.
 - (2) A Crown grant under this section—
 - (a) is subject to any terms, conditions, covenants, exceptions, reservations and limitations that the Governor in Council may determine; and
 - (b) may provide for the land to be granted as to the surface and down to a depth specified in the grant being a depth below the surface of not more than 300 metres.
 - (3) A Crown grant under this section may make any adjustments necessary to correct any defect in boundaries found on survey.

205. Registrar-General and Registrar of Titles to make necessary amendments to records

- (1) The Registrar-General, on being requested to do so, must make all entries on the records of enrolment of any Crown Grant and on any memorial relating to land that are necessary because of the operation of any provision of this Part.
- (2) The Registrar of Titles, on being requested to do so, must make any amendments to the Register under the **Transfer of Land Act 1958** that are necessary because of the operation of any provision of this Part.

S. 205
inserted by
No. 79/1995
s. 18.

Electricity Industry Act 1993
Act No. 130/1993

s. 206

206. Exemption from stamp duty and other taxes

No stamp duty or other tax is chargeable under any Act in respect of anything done under this Part or in respect of any act or transaction connected with or necessary to be done by reason of this Part.

S. 206
inserted by
No. 79/1995
s. 18.

Pt 16
(Headings
and ss 207–
218) inserted
by No.
79/1995 s. 19.

S. 207
inserted by
No. 79/1995
s. 19.

Victorian Legislation and Parliamentary Documents

PART 16—HAZELWOOD LAND

Division 1—Surrender of land

207. *Surrender of land to Crown*

By force of this section—

- (a) the whole of the land described in the folios of the Register set out in Table A of Part 1 of Schedule 3C and the whole of the land described in the former certificates of title set out in Table B of Part 1 of Schedule 3C—
 - (i) is divested from Generation Victoria, SEC, Hazelwood Power Corporation Limited A.C.N. 065 381 204, Powerworks Pty Ltd A.C.N. 065 325 466 and the Central Gippsland Region Water Authority; and
 - (ii) reverts to the Crown; and
 - (iii) subject to sections 208, 209 and 210, is deemed to be unalienated Crown land freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
- (b) the folios of the Register set out in Table A of Part 1 of Schedule 3C are revoked.

208. *Preservation of leases*

- (1) In this section "**lease**" includes an agreement, licence or other interest arising under or in relation to a lease whether or not the lease has expired and an interest in the nature of a lease and "**sub-lease**" has a corresponding meaning.

S. 208
inserted by
No. 79/1995
s. 19.

Electricity Industry Act 1993
Act No. 130/1993

s. 208

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- (2) Section 207 does not affect the status or continuity of any lease of land specified in Part 2 of Schedule 3C and existing immediately before the commencement of section 19 of the **Electricity Industry (Further Amendment) Act 1995** and that lease has effect—
- (a) as a lease between the Minister administering the **Land Act 1958** as lessor and the lessee for the time being under the lease, as if it had been assigned to the Minister; and
 - (b) as if it referred to the Minister instead of to the lessor (however described).
- (3) Section 207 does not affect the status or continuity of any sub-lease existing over the land affected by a lease specified in Part 2 of Schedule 3C at the date of commencement of section 19 of the **Electricity Industry (Further Amendment) Act 1995**.
- (4) Subject to sub-section (5), the issue of a Crown grant of any land affected by a lease specified in Part 2 of Schedule 3C and existing immediately before the date of issue of the Crown grant does not affect the status or continuity of the lease of that land and that lease has effect on and from the issue of the Crown grant—
- (a) as a lease between the person to whom the Crown grant is made as lessor and the lessee for the time being under the lease, as if it had been assigned to the person to whom the Crown grant is made; and
 - (b) as if the lease referred to the person to whom the Crown grant is made instead of to the lessor (however described).
- (5) If more than one Crown grant is issued of any land affected by a lease specified in Part 2 of Schedule
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3C and existing immediately before the date of issue of the Crown grants, the issue of the Crown grants does not affect the status or continuity of the lease of that land and that lease has effect on and from the issue of the Crown grants—

- (a) as a lease between the persons to whom the respective Crown grants are made as joint lessors and the lessee for the time being under the lease, as if it had been assigned jointly to the persons to whom the respective Crown grants are made; and
 - (b) as if the lease referred to the persons to whom the respective Crown grants are made instead of to the lessor (however described).
- (6) The issue of a Crown grant in respect of any land affected by a lease specified in Part 2 of Schedule 3C does not affect the status or continuity of any sub-lease existing over that land at the time of the issue of the Crown grant in respect of that land.
- (7) This section has effect despite anything to the contrary in any Act or law or in a Crown grant of the land.
- (8) Nothing effected by this section is to be regarded as placing any person in breach of or as constituting a default under any provision of a lease, including any provision prohibiting, restricting or regulating the assignment of the lease.

209. *Preservation of appurtenant SEC easements*

Any easement vested in SEC which is expressed in any instrument to be appurtenant to the land described in folio of the Register Volume 8217 folio 219 is deemed, despite anything to the contrary in that first-mentioned instrument, on and after the commencement of section 19 of the

S. 209
inserted by
No. 79/1995
s. 19.

Electricity Industry (Further Amendment) Act 1995 to be and always to be an easement vested in SEC and appurtenant to the lands vested in SEC for the time being and from time to time and to every part thereof.

210. *Preservation of other easements*

S. 210
inserted by
No. 79/1995
s. 19.

- (1) The surrender under section 207 of—
- (a) the land in folio of the Register Volume 8274 folio 748, does not affect the status or continuity of the drainage and sewerage easements coloured green on plan of subdivision LP 56904 lodged in the Office of Titles; and
 - (b) the land in folio of the Register Volume 8274 folio 867, does not affect the status or continuity of the drainage easement coloured green on plan of subdivision LP 56794 lodged in the Office of Titles—

and those easements have effect as if granted by the Minister administering the **Land Act 1958**.

- (2) A Crown grant of any land affected by an easement referred to in sub-section (1) must be granted subject to the creation of an easement to the same effect as the first-mentioned easement.
- (3) This section has effect despite anything to the contrary in any Act or law or in a Crown grant of the land.

211. *Gippsland Water land to be surrendered*

S. 211
inserted by
No. 79/1995
s. 19.

By force of this section—

- (a) the whole of the land described in folio of the Register Volume 6493 folio 569—
 - (i) is divested from Central Gippsland Region Water Authority; and

- (ii) reverts to the Crown; and
 - (iii) is deemed to be unalienated Crown land freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
- (b) folio of the Register Volume 6493 folio 569 is revoked.

212. *La Trobe Shire Council land to be surrendered*

By force of this section—

- (a) the whole of the land described in folio of the Register Volume 6101 folio 127—
 - (i) is divested from La Trobe Shire Council; and
 - (ii) reverts to the Crown; and
 - (iii) is deemed to be unalienated Crown land freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
- (b) folio of the Register Volume 6101 folio 127 is revoked.

213. *Roads Corporation land to be surrendered*

(1) By force of this section—

- (a) the whole of the land described in Part 3 of Schedule 3C—
 - (i) is divested from the Roads Corporation; and
 - (ii) reverts to the Crown; and
 - (iii) is deemed to be unalienated Crown land freed and discharged from all trusts, limitations, reservations, restrictions,

-
- encumbrances, estates and interests;
and
- (b) the folios of the Register set out in Part 3 of Schedule 3C are revoked.
- (2) By force of this section the whole of the land described in sub-section (3)—
- (a) is divested from the Roads Corporation; and
- (b) reverts to the Crown; and
- (c) is deemed to be unalienated Crown land freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests.
- (3) Sub-section (2) applies to—
- (a) the land described in the Second Schedule to the resolution of the Country Roads Board made under sections 21 and 58 of the **Country Roads Act 1928** on 24 May 1954 in respect of the Jeeralang West-Road in the Shire of Morwell and confirmed by the Governor in Council on 1 June 1954 and published in the Government Gazette on 9 June 1954, page 3878 as amended by Order in Council dated 21 September 1954 published in the Government Gazette on 29 September 1954 page 6411; and
- (b) the lands shown cross-hatched on plans numbered G.P. 13736, G.P. 13737A, and G.P. 13737B in the Resolution of the Country Roads Board made under sections 21, 58 and 74 of the **Country Roads Act 1958** on 8 December 1975 and published in the Government Gazette on 7 January 1976 pages 17 and 18; and
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- (c) the land shown cross-hatched on plan numbered G.P. 13737C in the Resolution of the Country Roads Board made under sections 21, 58 and 110 of the **Country Roads Act 1958** on 8 December 1975 and published in the Government Gazette on 7 January 1976 pages 19 and 20.

Division 2—Revocation of reservation and closure of roads

214. *Revocation of river reservation*

- (1) The Order in Council specified in Part 4 of Schedule 3C, insofar as it applies to the land delineated and coloured light green on the plan lodged in the Central Plan Office of the Department of Treasury and Finance and numbered LEGL./95-84 is revoked.
- (2) On the revocation by this section of an Order in Council reserving land—
 - (a) the land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests;
 - (b) the appointment of any committee of management is revoked to the extent that it applies to the land;
 - (c) any regulations made under section 13 of the **Crown Land (Reserves) Act 1978** are revoked to the extent that they apply to the land.

215. *Rights in roads to cease*

The lands delineated and coloured blue on the plan lodged in the Central Plan Office of the Department of Treasury and Finance and numbered LEGL./95-84 cease to be roads or parts

of roads and all rights, easements and privileges existing or claimed in the land either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise cease.

Division 3—General

216. *Issue of Crown grant*

- (1) The Governor in Council, on behalf of the Crown, may grant to Generation Victoria, SEC, Hazelwood Power Corporation Limited A.C.N. 065 381 204, Powerworks Pty Ltd A.C.N. 065 325 466 or the Central Gippsland Region Water Authority for an estate in fee simple—
 - (a) any unalienated Crown land that is not reserved under the **Crown Land (Reserves) Act 1978**; or
 - (b) any land that reverts or is surrendered to the Crown under this Part.
- (2) A Crown grant under this section—
 - (a) is subject to any terms, conditions, covenants, exceptions, reservations and limitations that the Governor in Council may determine; and
 - (b) may provide for the land to be granted as to the surface and down to a depth specified in the grant being a depth below the surface of not more than 300 metres.
- (3) A Crown grant under this section may make any adjustments necessary to correct any defect in boundaries found on survey.

S. 216
 inserted by
 No. 79/1995
 s. 19.

S. 217
inserted by
No. 79/1995
s. 19.

217. Registrar-General and Registrar of Titles to make necessary amendments to records

- (1) The Registrar-General, on being requested to do so, must make all entries on the records of enrolment of any Crown Grant and on any memorial relating to land that are necessary because of the operation of any provision of this Part.
- (2) The Registrar of Titles, on being requested to do so, must make any amendments to the Register under the **Transfer of Land Act 1958** that are necessary because of the operation of any provision of this Part.

S. 218
inserted by
No. 79/1995
s. 19.

218. Exemption from stamp duty and other taxes

No stamp duty or other tax is chargeable under any Act in respect of anything done under this Part or in respect of any act or transaction connected with or necessary to be done by reason of this Part.

PART 17—OTHER LAND

219. *Revocation of river reservation—Goulburn River*

The Order in Council specified in item 1 of Part 5 of Schedule 3C is revoked insofar as it applies to the land delineated and coloured light green on the plan lodged in the Central Plan Office of the Office of Surveyor General and numbered LEGL./97-26.

Pt 17
(Heading and
ss 219–222)
inserted by
No. 35/1997
s. 16.

S. 219
inserted by
No. 35/1997
s. 16.

220. *Revocation of river reservation—Mitta Mitta River*

The Order in Council specified in item 2 of Part 5 of Schedule 3C is revoked insofar as it applies to the land delineated and coloured light green on the plan lodged in the Central Plan Office of the Office of Surveyor General and numbered LEGL./97-27.

S. 220
inserted by
No. 35/1997
s. 16.

221. *Consequences of revoking reservations*

On the revocation under this Part of an Order in Council reserving land—

- (a) the land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests;
- (b) the appointment of any committee of management is revoked to the extent that it applies to the land;
- (c) any regulations made under section 13 of the **Crown Land (Reserves) Act 1978** are revoked to the extent that they apply to the land.

S. 221
inserted by
No. 35/1997
s. 16.

S. 222
inserted by
No. 35/1997
s. 16.

222. *Rights in roads to cease*

The land delineated and coloured blue on the plans lodged in the Central Plan Office of the Office of Surveyor General and numbered LEGL./97-26 and LEGL./97-27 cease to be roads and all rights, easements and privileges existing or claimed in the land either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise cease.

SCHEDULES

SCHEDULE 1

PROVISIONS APPLYING TO THE ELECTRICITY CORPORATIONS

1. *Delegation*

An electricity corporation may, by instrument under its official seal, delegate to—

- (a) a director; or
- (b) an officer of the corporation by name or the holder of an office within the corporation; or
- (c) the members of a committee established by the corporation; or
- (d) with the consent of the Minister, any other person—
any power of the corporation, other than—
 - (e) this power of delegation; and
 - (f) any power to make by-laws; and
 - (g) any power to set a tariff or make or levy rates; and
 - (h) any other power that is prescribed for the purposes of this clause.

Sch. 1 cl. 1
amended by
No. 53/1994
ss 22(a)(b),
23(2)(a).

2. *Board of directors*

- (1) There shall be a board of directors of each electricity corporation consisting of not less than 3, and not more than 9, directors appointed in accordance with this Act.
- (2) A board—
 - (a) is responsible for the management of the affairs of the electricity corporation; and
 - (b) may exercise the powers of the electricity corporation.

Sch. 1 cl. 2
amended by
No. 53/1994
s. 22(c)(d).

3. *Constitution of board*

The board of directors of an electricity corporation shall consist of—

- (a) a chairperson;

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- (b) if there is a chief executive officer of the corporation, the chief executive officer;
- (c) subject to clause 2, such number of general directors as the Minister and Treasurer determine.

4. *Appointment of directors*

- (1) The chairperson and other directors of an electricity corporation, other than the chief executive officer, shall be appointed by the Governor in Council, having regard to the expertise necessary for the corporation, other than the chief executive officer, to achieve its objectives.
- (2) The **Public Sector Management and Employment Act 1998** does not apply to a director of an electricity corporation in respect of the office of director.

5. *Terms and conditions of appointment*

- (1) A director of an electricity corporation appointed under clause 4 shall be appointed for such term, not exceeding 3 years, as is specified in the instrument of appointment, but is eligible for re-appointment.
- (2) A director of an electricity corporation appointed under clause 4 holds office, subject to this Act, on such terms and conditions as are determined by the Minister and Treasurer.

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6. *Chief executive officer*

- (1) The board of an electricity corporation may appoint a person approved by the Minister, after consultation with the Treasurer, as the chief executive officer of the corporation.
- (2) A chief executive officer holds office, subject to this Act, on a full-time basis and on such terms and conditions as are determined by the board and specified in the instrument of appointment.
- (3) The board of an electricity corporation may remove the chief executive officer from office.

7. *Vacancies, resignations, removal from office*

Sch. 1 cl. 4
amended by
No. 53/1994
s. 22(f)(g).

Sch. 1 cl. 4(2)
amended by
No. 46/1998
s. 7(Sch. 1).

Sch. 1 cl. 5(3)
repealed by
No. 42/1995
s. 224(Sch. 2
item 13.3).

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Sch. 1

(1) The office of a director of an electricity corporation appointed under clause 4 becomes vacant if the director—

(a) without the board's approval, fails to attend 3 consecutive meetings of the board; or

* * * * *

Sch. 1
cl. 7(1)(b)
repealed by
No. 42/1995
s. 224(Sch. 2
item 13.3).

(c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or

(d) is convicted of an indictable offence or an offence which, if committed in Victoria, would be an indictable offence.

(2) A director appointed under clause 4 may resign by writing delivered to the Minister and the Treasurer.

(3) The Governor in Council may remove a director appointed under clause 4, or all directors so appointed, from office.

(4) If a director appointed under clause 4 of an electricity corporation—

(a) is convicted of an offence relating to his or her duties as a director; or

(b) fails, without reasonable excuse, to comply with clause 12—

the director must be removed from office by the Governor in Council.

8. *Validity of decisions*

(1) An act or decision of a board of an electricity corporation is not invalid merely because of—

(a) a defect or irregularity in, or in connection with, the appointment of a director; or

(b) a vacancy in the membership of the board, including a vacancy arising from the failure to appoint an original director.

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- (2) Anything done by or in relation to a person purporting to act as chairperson or as a director is not invalid merely because—
- (a) the occasion for the appointment has not arisen; or
 - (b) there was a defect or irregularity in relation to the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion for the person to act had not arisen or had ceased.

9. *Proceedings of a board*

- (1) Subject to sub-clause (2), meetings of a board of an electricity corporation shall be held at such times and places as the board determines.
- (2) The chairperson may at any time convene a meeting but must do so when requested by a director.
- (3) A majority of the directors for the time being constitutes a quorum of a board.
- (4) A question arising at a meeting shall be determined by a majority of votes of directors present and voting on that question and, if voting is equal, the person presiding has a casting, as well as a deliberative, vote.
- (5) A board must ensure that minutes are kept of each of its meetings.
- (6) Subject to this Act, a board may regulate its own proceedings.

10. *Resolutions without meetings*

- (1) If the directors of an electricity corporation for the time being (other than a director who is absent from Australia when the other directors sign) sign a document containing a statement that those directors are in favour of a resolution in terms set out in the document, a resolution in those terms shall be taken to have been passed at a meeting of the board held on the day on which the document is signed or, if the directors do not sign it on the same day, on the day on which the last director to sign signs the document.
 - (2) If a resolution is, under sub-clause (1), taken to have been passed at a meeting of the board, each director must be advised as soon as practicable and given a copy of the terms of the resolution.
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Sch. 1

- (3) For the purposes of sub-clause (1), two or more separate documents containing a statement in identical terms, each of which is signed by one or more directors, shall be taken to constitute one document.

* * * * *

Sch. 1 cl. 11
repealed by
No. 53/1994
s. 22(e).
Sch. 1 cl. 12
amended by
No. 53/1994
s. 23(2)(d).

12. Disclosure of interests

- (1) If—
- (a) a director of an electricity corporation has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the board; and
 - (b) the interest could conflict with the proper performance of the director's duties in relation to the consideration of the matter—
- the director, as soon as practicable after the relevant facts come to the director's knowledge, must disclose the nature of the interest at a meeting of the board.
- (2) A disclosure under sub-clause (1) must be recorded in the minutes of the meeting and, unless the Minister or the board otherwise determines, the director—
- (a) must not be present during any deliberation of the board in relation to the matter; and
 - (b) must not take part in any decision of the board in relation to the matter.
- (3) For the purpose of the making of a determination by the board under sub-clause (2) in relation to a director who has made a disclosure under sub-clause (1), a director who has a direct or indirect pecuniary interest in the matter to which the disclosure relates—
- (a) must not be present during any deliberation of the board for the purpose of making the determination; and
 - (b) must not take part in the making by the board of the determination.
- (4) Sub-clause (1) does not apply in relation to a matter relating to the supply of goods or services to the director if the goods

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or services are, or are to be, available to members of the public on the same terms and conditions.

SCHEDULE 2

EASEMENTS SET APART FOR ELECTRICITY CORPORATIONS

Sch. 2
amended by
No. 10/1998
s. 10(1)(b).

Easements set apart or appropriated for the use of an electricity corporation under section 44.

Column 1	Column 2
Power Line	Full and free right and liberty to and for an electricity corporation and its transferees and its and their contractors, servants agents and workmen at all times hereafter to enter in and upon the land to which the easement applies and to take onto or remove from such land any plant machines vehicles equipment or materials and to clear and to keep free such land of any buildings whatsoever and of anything which is or may be an obstruction to the rights hereby described including trees more than 2·7 metres in height or any structure more than 2·7 metres in height for every overhead electric cable or wire and including all trees and structures for every cable or wire laid underground and to construct lay or place one or more poles cables wires, marker posts, service pillars, stays or guy wires and to lay underground and fix and cover in such cables wires pipes ducts outlets galvanised iron pipe conduits poly vinyl chloride conduits and other apparatus appliances and protective coverings as may be required or desired for the transmission of electricity (all of which are hereinafter called "the said appliances") but so always that every overhead electric cable or wire shall be erected at least 4·6 metres above the then surface of such land and every cable or wire laid underground shall be laid at least 0·45 metres below the said then surface except when entering or leaving the ground of such land and also to carry out thereon such digging, cutting and excavating as may be reasonably necessary for the said appliances and keeping the said excavations free of the injurious accumulation of water but so that every excavation will be covered in as soon as possible and also to use such land and the said appliances for all purposes of and incidental to transmitting electricity safely and economically across such land at any time hereinafter and also to inspect maintain in good and efficient working order repair renew and remove the said appliances and also from time

Sch. 2

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to time to go pass and repass for all purposes aforesaid
either with or without plant machines vehicles equipment
or material through over and along such land.

SCHEDULE 3

**EXCLUDED PROPERTY: AGREEMENTS, CONTRACTS,
DOCUMENTS AND OTHER PROPERTY REFERRED TO**

PART A—PORTLAND AND POINT HENRY SMELTERS

<i>Date</i>	<i>Agreement, contract or deed</i>
31 July 1984	Portland Electricity Supply Agreement between SEC and Portland Smelter Services Pty Ltd.
31 July 1984	Deed of Release between SEC and Alcoa of Australia Ltd.
31 January 1986	Portland Electricity Supply Agreement Principals Agreement between SEC, CITIC Australia (Portland) Pty Ltd, Alcoa of Australia Ltd, Portland Smelter Services Pty Ltd, Permanent Trustee Company Ltd and Marubeni Aluminium Australia Pty Ltd and Aluvic Services Pty Ltd.
1 December 1986	Portland Flexible Tariff Deed between SEC and State Trust Corporation of Victoria.
30 March 1989	Portland Electricity Supply Agreement Operating Agreement between SEC and Portland Smelter Services Pty Ltd.
24 December 1992	Electricity Payment Agreement between SEC, CITIC Australia (Portland) Pty Ltd and Portland Smelter Services Pty Ltd.
31 July 1984	Point Henry Electricity Supply Agreement between SEC and Alcoa of Australia Ltd.
1 December 1986	Point Henry Flexible Tariff Deed between SEC and State Trust Corporation of Victoria.
23 October 1991	Automatic Reclosing Point Henry–Geelong Terminal Station Line Electricity Extension Works Contract between SEC and Alcoa of Australia Ltd.
31 July 1984	Deed relating to Point Henry aluminium smelter between SEC, Alcoa of Australia Ltd and the Crown.

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PART B—LOY YANG B

Division 1—Agreements, etc.

All:

- (a) contracts and deeds to which SEC (in this Part of this Schedule called "the Commission") is a party or of which it has the benefit.
- (b) guarantees and indemnities, mortgages, charges and other securities, undertakings, instruments, certificates, approvals, confirmations and notices given by a person in favour of the Commission or of which the Commission has the benefit; and
- (c) guarantees and indemnities, mortgages, charges and other securities, undertakings, instruments, certificates, approvals, confirmations and notices given by the Commission in favour of another person or persons,

in relation to the Loy Yang B Power Station located at Loy Yang near Traralgon in Victoria ("Loy Yang B Power Station") or the Project (as defined in the **Loy Yang B Act 1992**) or any transaction in relation to the Loy Yang B Power Station or the Project, including, without limitation:

Sale of Assets

1. Sale of Assets Agreement dated 31 December 1992 between the Commission, Loy Yang B Power Station Pty Ltd ("LYBCO") and Mission Energy Australia Pty Ltd ("MEA") as managing partner of the Latrobe Power Partnership (as defined in this agreement) ("LPP").
2. Vendor's Statement under Section 32 of the **Sale of Land Act 1962** given by the Commission in favour of LYBCO and MEA as managing partner of LPP.
3. Agreement for Sale of Loy Yang B Power Station (in the course of construction) dated 30 June 1991 between the Commission and LYBCO (then called A.C.N. 052 530 551 Pty Ltd).
4. Letters dated 5 June 1992, 9 July 1992 and 7 August 1992 from the Commission to LYBCO (and signed as "Agreed" on behalf of LYBCO) varying the Agreement for Sale of

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Sch. 3

Loy Yang B Power Station (in the course of construction) dated 30 June 1991 between the Commission and LYBCO (then called A.C.N. 052 530 551 Pty Ltd).

5. Agreement to Further Amend the Agreement for Sale of Loy Yang B Power Station dated 31 December 1992 between the Commission and LYBCO.
6. Delayed Settlement Agreement dated 31 December 1992 between the Commission and MEA as managing partner of LPP.
7. Delayed Settlement Agreement dated 31 December 1992 between the Commission and LYBCO.

Joint Venture

8. LYBCO Shareholder's Deed dated 31 December 1992 between the Commission, LYBCO and MEA as managing partner of LPP.
9. Guarantee and Indemnity dated 31 December 1992 between the Commission and MEA as managing partner of LPP.
10. Mission Energy Company Undertaking dated 31 December 1992 given in favour of the Commission by Mission Energy Company ("MEC").
11. Deed of Acknowledgment and Covenant dated 31 December 1992 between LYBCO, the Commission, Mission Energy Ventures Australia Pty Ltd ("MEVA"), Latrobe Power Pty Ltd ("Latrobe") and Traralgon Power Pty Ltd ("Traralgon").
12. Clear Market Agreement contained in a letter dated 31 December 1992 from MEC and MEA (as managing partner of LPP) to the Commission and LYBCO (and signed as "Accepted and agreed" on behalf of the Commission and LYBCO).

Completion of Construction

13. Completion of Construction Agreement ("CCA") dated 31 December 1992 between the Commission, LYBCO and MEA as managing partner of LPP.
 14. LPP CCA Deed Poll dated 31 December 1992 given by MEA, MEVA, Latrobe and Traralgon in favour of the Commission.
 15. LYBCO CCA Deed Poll dated 31 December 1992 given by LYBCO in favour of the Commission.
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16. Licence Agreement "(Licence Agreement)" dated 31 December 1992 between the Commission, LYBCO, MEA as managing partner of LPP and Mission Energy Management Australia Pty Ltd ("MEMA").
17. Vendor's Statement under Section 32 of the **Sale of Land Act 1962** dated 31 December 1992 given by LYBCO in favour of the Commission.
18. Vendor's Statement under Section 32 of the **Sale of Land Act 1962** dated 31 December 1992 given by MEA as managing partner of LPP in favour of the Commission.
19. CCA Security dated 31 December 1992 between the Commission, LYBCO, MEA, MEVA, Latrobe and Traralgon.
20. Mortgage dated 31 December 1992 given by MEA and LYBCO in favour of the Commission.

Power Supply

21. Letter dated 18 December 1992 from the Minister for Energy and Minerals to the Commission in relation to the proposed Power Supply Agreement.
 22. Power Supply Agreement dated 31 December 1992 between the Commission, LYBCO and MEA as managing partner of LPP.
 23. LPP PSA Deed Poll dated 31 December 1992 given by MEA, MEVA, Latrobe and Traralgon in favour of the Commission.
 24. LYBCO PSA Deed Poll dated 31 December 1992 given by LYBCO in favour of the Commission.
 25. Delta Risk Charge Covenant, Guarantee and Indemnity dated 31 December 1992 between Loy Yang Holdings Pty Ltd, MEC and the Commission.
 26. Appointment—Keeper of the Models dated 30 September 1993 between the Commission, LYBCO, MEA (as managing partner of LPP) and William M. Mercer Pty Ltd.
 27. Confidentiality Deed of Undertaking (Models) (SECV) dated 31 December 1992 given by the Commission in favour of MEC.
 28. Vendor's Statement under Section 32 of the **Sale of Land Act 1962** dated 31 December 1992 given by LYBCO in favour of the Commission.
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29. Vendor's Statement under Section 32 of the **Sale of Land Act 1962** dated 31 December 1992 given by MEA as managing partner of LPP in favour of the Commission.
 30. Interest Rate and Currency Exchange Agreement dated 21 September 1992 between Westpac Banking Corporation ("Westpac") and the Commission.
 31. Interest Rate and Currency Exchange Agreement dated 21 September 1992 between Chemical Australia Limited ("Chemical") and the Commission.
 32. Interest Rate and Currency Exchange Agreement dated 21 September 1992 between County NatWest Australia Limited ("County NatWest") and the Commission.
 33. Interest Rate and Currency Exchange Agreement dated 21 September 1992 between Credit Lyonnais Australia Limited ("Credit Lyonnais") and the Commission.
 34. Interest Rate and Currency Exchange Agreement dated 21 September 1992 between LTCB Australia Limited ("LTCB") and the Commission.
 35. Interest Rate and Currency Exchange Agreement dated 21 September 1992 between UBS Australia Limited ("UBS") and the Commission.
 36. ISDA Execution Deed dated 3 December 1992 given by the Commission in favour of Westpac.
 37. ISDA Execution Deed dated 3 December 1992 given by the Commission in favour of Chemical.
 38. ISDA Execution Deed dated 3 December 1992 given by the Commission in favour of County NatWest.
 39. ISDA Execution Deed dated 3 December 1992 given by the Commission in favour of Credit Lyonnais.
 40. ISDA Execution Deed dated 3 December 1992 given by the Commission in favour of LTCB.
 41. ISDA Execution Deed dated 3 December 1992 given by the Commission in favour of UBS.
 42. Swap Novation Deed dated 31 December 1992 between Westpac, the Commission, MEA, MEVA, Latrobe and Traralgon.
 43. Swap Novation Deed dated 31 December 1992 between Chemical, the Commission, MEA, MEVA, Latrobe and Traralgon.
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44. Swap Novation Deed dated 31 December 1992 between County NatWest, the Commission, NatWest Australia Bank Limited ("NatWest Australia"), MEA, MEVA, Latrobe and Traralgon.
 45. Swap Novation Deed dated 31 December 1992 between Credit Lyonnais, the Commission, MEA, MEVA, Latrobe and Traralgon.
 46. Swap Novation Deed dated 31 December 1992 between LTCB, the Commission, MEA, MEVA, Latrobe and Traralgon.
 47. Swap Novation Deed dated 31 December 1992 between UBS, the Commission, MEA, MEVA, Latrobe and Traralgon.
 48. Post Settlement Swap Novation Deed dated 31 December 1992 between Westpac, the Commission, MEA, MEVA, Latrobe and Traralgon.
 49. Post Settlement Swap Novation Deed dated 31 December 1992 between Chemical, the Commission, MEA, MEVA, Latrobe and Traralgon.
 50. Post Settlement Swap Novation Deed dated 31 December 1992 between County NatWest, the Commission, NatWest Australia, MEA, MEVA, Latrobe and Traralgon.
 51. Post Settlement Swap Novation Deed dated 31 December 1992 between Credit Lyonnais, the Commission, MEA, MEVA, Latrobe and Traralgon.
 52. Post Settlement Swap Novation Deed dated 31 December 1992 between LTCB, the Commission, MEA, MEVA, Latrobe and Traralgon.
 53. Post Settlement Swap Novation Deed dated 31 December 1992 between UBS, the Commission, MEA, MEVA, Latrobe and Traralgon.
 54. Letter dated 7 December 1992 from the Commission to Westpac, LYBCO and MEA (as managing partner of LPP) in relation to the swap rate influence on charges under the Power Supply Agreement (and signed as "Confirmed" on behalf of LYBCO and MEA, as managing partner of LPP).
 55. Letter dated 9 December 1992 from MEC to the Commission and Westpac in relation to the finalisation of Loy Yang B (and signed as "Confirmed" on behalf of the Commission and "Accepted" on behalf of Westpac and the
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other members of Mission Bank Group and County NatWest).

56. Letter dated 9 December 1992 from MEA (as managing partner of LPP) to the Commission in relation to the entering into of certain swap transactions (and signed as "Confirmed" on behalf of the Commission and "Accepted" on behalf of Westpac and the other members of the Mission Bank Group and County NatWest).
57. PSA Security dated 31 December 1992 between the Commission, LYBCO, MEA, MEVA, Latrobe and Traralgon.
58. Mortgage dated 31 December 1992 given by MEA and LYBCO (as mortgagors) in favour of the Commission (as mortgagee).

Coal Supply

59. Coal Supply Agreement dated 31 December 1992 between the Commission, LYBCO and MEA as managing partner of LPP.
60. CSA Security dated 31 December 1992 between the Commission, LYBCO, MEA, MEVA, Latrobe and Traralgon.
61. Mortgage dated 31 December 1992 given by MEA and LYBCO (as mortgagors) in favour of the Commission (as mortgagee).

Miscellaneous Services Agreement

62. Miscellaneous Services Agreement ("MSA") dated 31 December 1992 between the Commission, LYBCO and MEA as managing partner of LPP.
63. MSA Security dated 31 December 1992 between the Commission, LYBCO, MEA, MEVA, Latrobe and Traralgon.
64. Mortgage dated 31 December 1992 given by MEA and LYBCO (as mortgagors) in favour of the Commission (as mortgagee).
65. Caveat dated 31 December 1992 lodged by the Commission (as caveator) over land owned by LYBCO and MEA (being parts of the land in certificates of title volume 10092 folios 824, 825 and 826).

State Agreement

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66. State Agreement dated 2 October 1992 between the State of Victoria (the "State"), the Commission, LYBCO, Victorian Power Station Investments Pty Ltd ("VPSI") and MEA (for and on behalf of LPP).
67. Section 33 Agreement dated 31 December 1992 between the Commission and MEC.
68. Deed of Waiver dated 31 December 1992 between VPSI, LYBCO, MEA, MEVA, Latrobe, Traralgon, the Commission and the State.
69. Deed of Covenant dated 31 December 1992 between VPSI, LYBCO, MEA, MEVA, Latrobe, Traralgon, the Commission and the State.
70. Deed of Assignment dated 31 December 1992 between VPSI, LYBCO, MEA, MEVA, Latrobe, Traralgon, the Commission and the State.

State Support

71. State Support Agreement dated 31 December 1992 between the State, MEA (as managing partner of LPP), LYBCO, each bank or financial institution named in Schedule 1 to that Agreement and Westpac ("State Support Agreement").
72. State Agreement SECV Deed of Covenant dated 31 December 1992 between the Commission and the State.

Intercreditor

73. Intercreditor Agreement dated 31 December 1992 between MEA, MEVA, Latrobe, Traralgon, LYBCO, MEMA, the Commission, each of the financial institutions described in Schedule 1 to that agreement and Westpac ("Intercreditor Agreement").
74. Custodian Deed dated 31 December 1992 between Westpac Custodian Nominees Limited, MEA, MEVA, Latrobe, Traralgon, LYBCO, MEMA, the Commission, each of the financial institutions described in the Schedule to that Deed and Westpac.

LYBCO

75. \$A Facility Agreement ("LYBCO Facility Agreement") dated 31 December 1992 between LYBCO and the Commission and all Drawdown Notices given under that agreement.
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- 76. Two letters dated 31 December 1992 from the Commission to LYBCO acknowledging that certain amounts payable by LYBCO to the Commission have been satisfied by the application of drawings under the LYBCO Facility Agreement.
 - 77. Letter dated 31 December 1992 from the Commission to LPP in relation to the amendment of LYBCO's articles of association.
 - 78. Each deed under which a financial institution became a party to the State Support Agreement or the Intercreditor Agreement.

other than any contract or deed under which goods or services are supplied to the Commission for the purposes of the Commission supplying Services (as defined in the MSA) to the Participants (as defined in the MSA) under the MSA.

Division 2—Other Contracts, etc.

- (a) All contracts and deeds to which the Commission is a party relating to the construction of the Loy Yang B Power Station including, without limitation, all "Construction Contracts" as defined in the CCA.
- (b)
 - (i) All documents, reports, contracts and deeds included as the "Dataroom Documents" as defined in the Sale of Assets Agreement dated 31 December 1992 between the Commission, LYBCO and MEA as managing partner of LPP.
 - (ii) All Computer Software as defined in the Licence Agreement.
 - (iii) All Operational Information as defined in clause 30.1(a) of the CCA.
- (c) Those interest rate swap transactions relating to a Loy Yang B contract entered into by the Commission with Credit Suisse Financial Products ("CSFB") pursuant to an Interest Rate and Currency Exchange Agreement dated 30 October 1992 as more particularly described in letters from CSFB to the Commission dated:
 - 1. 9 December 1992;
 - 2. 9 December 1992;
 - 3. 17 December 1992;

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4. 30 December 1992;
 5. 12 February 1993; and
 6. 14 May 1993.
- (d) Those interest rate swap transactions relating to a Loy Yang B contract entered into by the Commission with State Bank of New South Wales Limited ("SBNSW") pursuant to an Interest Rate and Currency Exchange Agreement dated 27 May 1993 as more particularly described in letters from SBNSW to the Commission dated:
1. 21 April 1993; and
 2. 6 July 1993.
- (e) That interest rate swap transaction relating to a Loy Yang B contract entered into by the Commission with UBS pursuant to an Interest Rate and Currency Exchange Agreement dated 17 January 1990 as more particularly described in a letter from UBS to the Commission dated 14 July 1993.
- (f) The Commission's shares in Loy Yang B Power Station Pty Ltd (including any shares in that company in which the Commission has a beneficial interest).
- (g) The right, title and interest of the Commission in the Loy Yang Open Cut (as defined in the Coal Supply Agreement referred to in item 59 of Division 1 of this Part of this Schedule).
- (h) The Joint Venture Agreement and the Operating and Maintenance Agreement referred to in the State Agreement within the meaning of the **Loy Yang B Act 1992**.
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SCHEDULE 3A

PART 1

LAND TO BE SURRENDERED TO THE CROWN

Table A

Folios of the Register

Volume	Folio
2018	583
2528	566
2744	749
2744	750
2836	045
3027	347
3031	059
3215	909
4117	216
4127	361
4127	362
5001	200
5097	345
5097	346
5097	347
5097	348
5097	349
5097	350
5097	351
5097	352
5097	353
5115	852
5115	853
5278	443
5399	719
5604	716
5689	748
5931	022
5965	850
6004	746
6042	380
6058	442
6125	898

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inserted by
No. 56/1995
s. 38 (as
amended by
No. 79/1995
s. 30(1)-(5)).

Volume	Folio
6128	520
6188	483
6196	051
6209	650
6218	577
6218	578
6218	579
6218	580
6218	581
6233	475
6233	476
6258	570
6259	791
6298	493
6298	495
6320	905
6326	150
6349	629
6359	625
6361	181
6365	832
6372	266
6381	038
6389	630
6409	658
6412	247
6412	258
6412	259
6412	260
6412	261
6412	262
6426	169
6428	431
6428	462
6430	878
6430	879
6442	385
6448	592
6450	986
6453	549
6458	441
6467	269

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Volume	Folio
6467	270
6469	693
6475	927
6496	188
6506	136
6520	935
6550	000
6555	925
6557	232
6562	349
6578	426
6579	640
6579	641
6588	424
6596	063
6600	921
6621	142
6637	322
6637	323
6640	938
6656	121
6658	479
6666	060
6671	135
6682	224
6700	878
6710	813
6717	347
6717	348
6718	583
6746	173
6801	118
6814	665
6823	463
6823	483
6827	306
6830	963
6837	323
6837	398
6847	236
6847	343
6867	301

Volume	Folio
6899	614
6900	873
6902	347
6906	064
6927	395
6927	398
6947	389
6955	990
6961	038
7008	425
7015	827
7017	399
7024	698
7030	977
7030	978
7032	293
7032	294
7033	581
7088	460
7098	563
7107	373
7107	386
7107	387
7114	707
7118	517
7134	684
7139	674
7148	536
7180	991
7190	995
7190	996
7192	262
7224	720
7234	716
7275	886
7275	967
7305	962
7305	963
7308	408
7308	563
7359	653
7359	654

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Volume	Folio
7359	655
7371	096
7381	124
7389	619
7391	188
7397	265
7399	631
7399	691
7400	864
7413	558
7417	226
7417	291
7417	292
7427	280
7430	945
7430	948
7435	832
7438	553
7444	779
7451	119
7460	092
7474	031
7483	128
7486	102
7486	166
7498	145
7503	055
7503	056
7509	122
7509	131
7513	180
7520	036
7527	087
7543	041
7548	164
7548	165
7548	166
7572	056
7592	047
7593	031
7596	102
7605	134

Volume	Folio
7605	138
7617	148
7647	060
7662	005
7666	058
7678	068
7692	031
7709	102
7720	034
7752	192
7752	193
7752	194
7756	175
7763	002
7818	190
7832	066
7852	155
7861	194
7869	128
7880	032
7888	075
7888	076
7977	053
7984	100
8000	050
8016	039
8016	040
8016	041
8016	045
8016	047
8016	048
8016	049
8016	050
8016	051
8016	052
8016	054
8016	055
8028	031
8030	113
8040	322
8040	814
8040	815

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Volume	Folio
8040	816
8049	630
8064	947
8066	218
8074	549
8075	221
8078	595
8079	144
8085	829
8091	434
8092	470
8093	483
8093	808
8094	369
8095	148
8102	233
8109	145
8109	611
8118	609
8122	579
8124	401
8125	294
8130	575
8131	250
8150	020
8155	836
8159	241
8168	513
8170	399
8170	400
8175	027
8197	736
8208	214
8211	318
8228	298
8235	049
8238	258
8242	127
8247	275
8257	218
8257	822
8259	296

Volume	Folio
8277	943
8298	895
8308	782
8322	392
8322	579
8323	962
8343	859
8356	581
8363	315
8376	717
8376	718
8386	544
8388	567
8388	568
8413	632
8419	460
8423	041
8459	571
8470	568
8472	709
8479	616
8488	705
8489	332
8521	462
8527	269
8527	471
8529	527
8541	505
8548	277
8548	698
8548	699
8548	700
8552	643
8552	644
8552	645
8552	646
8554	323
8554	324
8554	325
8564	490
8564	724
8571	244

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Volume	Folio
8571	449
8581	405
8581	412
8582	864
8583	790
8587	824
8589	928
8592	789
8607	090
8612	687
8616	589
8621	171
8628	852
8632	411
8632	438
8632	940
8634	053
8638	045
8666	780
8679	752
8706	184
8712	536
8721	238
8735	433
8744	655
8748	117
8748	371
8760	984
8761	167
8772	762
8780	440
8783	812
8792	301
8795	518
8795	662
8800	425
8808	804
8820	834
8821	491
8833	664
8861	375
8879	336

Volume	Folio
8885	823
8892	122
8901	727
8916	374
8922	298
8926	837
8945	611
8969	134
8969	135
8995	138
9004	637
9010	327
9017	810
9126	572
9126	573
9150	098
9150	729
9205	110
9205	129
9214	284
9271	205
9338	229
9388	121
9388	284
9388	286
9429	308
9439	798
9481	159
9481	160
9481	161
9481	163
9481	164
9481	600
9498	670
9503	244
9508	218
9519	341
9531	971
9535	065
9535	745
9535	746
9535	763

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Volume	Folio
9541	086
9543	130
9549	481
9610	207
9648	662
9649	468
9819	591
10233	592

Table B
Former Certificates of Title

Volume	Folio
8581	406
9538	820
9538	821
9538	822
9538	823
9538	824
9300	092
9138	440
9524	665

PART 2**Leases****Table A**

The leased lands set out in this Table are shown generally delineated and hatched pink and designated by SEC lease number on plans numbered LEGL.95/-74 and LEGL./95-118 lodged in the Central Plan Office of the Department of Treasury and Finance. If there is an inconsistency between the leased land described in a lease set out in this Table and that leased land as shown on the plans, the lease prevails.

SEC Lease Number	Lessee	Street Address of Leased Land	Affected Titles	
			Volume	Folio
A499	J & C Read	Purvis Road & Howlett Road	9388	286
A500	Yallourn North Pony Club	Latrobe River Road	9388	286
A572	D McCasker	Tyers Road	7527 8712 9543	087 536 130
A718	JC & EM Bechaz	John Field Drive	9150	098
A720	DJ Handley	John Field Drive & Sullivans Track (cnr)	9150	098
A724	G & M Stewart	Moe-Yallourn Railway & Scout Track	9150	098
A726	N & M Green	Moe-Yallourn Railway	9150	098
A728	G & M Stewart	John Field Drive	9150	098
A730	N & M Green	Pettits Track & John Field Drive	9150	098
A732	G Robinson	Moe-Yallourn Railway	9481	163
A734	T Edwards	Pettits Track & John Field Drive	9481	164
A742	HM Rawson	Howlett Road, Hall Road & North Shore Road	9388	284
A744	BP Slavin	Latrobe River Road	9388	286

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SEC Lease Number	Lessee	Street Address of Leased Land	Affected Titles Volume	Folio
A748	HM Rawson	Howlett Road	9388	286
A748A	L Foot	Howlett Road	9388	286
A752	JM Vilcins	Decampo Drive & John Field Drive (cnr)	9481	164
A756	M Baskett	Coach Road	9150	098
A762	B Chewe	Golf Links Road & John Field Drive (cnr)	9150	098
A770	GN & LA Brand	Haunted Hills Road, Bill Schultz Road & Coach Road	9481	164
A771	Moe Waterworks Trust	Coach Road	9481	164
A772	A & M Rosato	Coach Road	9481	164
A776A	LG Beecroft	Haunted Hills Road & Decampo Drive	9481	164
A783C	DC Darrington	Haunted Hills Road (Flat 3)	8554	323
A784	C & V Hogg	Haunted Hills Road	9481 7486	160 166
A787	C & V Hogg	Hill Street	9649	468
A836A	Latrobe Valley Astro-nomical Society	Coach Road	9481	159
A836B	J Rosato	Decampo Drive (Westbrook Gully Dump)	9481	164
A840	Latrobe Valley Pistol Club	Latrobe River Road	9543	130
A842	Shire of Narracan	Latrobe River Road	9543	130
A865	D McDonald	Maxwells and Morrisons Road	8376	718

SEC Lease Number	Lessee	Street Address of Leased Land	Affected Titles	
			Volume	Folio
A883	KL Baird	Maxwells and Morrison's Road	6656	121
			9535	065
			9531	971
			6718	583
			6588	424
			2744	750
			2528	566
			8376	718
A899	M Lochki	Maxwells and Morrison's Road	9508	218
			9549	481
			9338	229
A900	Mrs N Maselli	Maxwells and Morrison's Road	8150	020
A906	KL Baird	Latrobe Road	2528	566
			2744	749
			6588	424
			9535	065
			9535	745
			9535	746
A906A	KL Baird	Maxwells and Morrison's Road	2528	566
			9535	065
			6656	121
			9819	591
			2744	750
			9531	971
			8376	718
			9541	086
			9508	218
			7763	002
			9549	481
			9338	229
			10233	592
A915	Cawcutt Pty Ltd	Latrobe Road and Old Tanjil East Road	2528	566
			6656	121
			9535	065
A919	Gippsland Car Club Inc	Latrobe Road	8916	374

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SEC Lease Number	Lessee	Street Address of Leased Land	Affected Titles	
			Volume	Folio
C049	TP McMahon	Princes Freeway, Haunted Hills Road & Gippsland Railway	9648	662
C052	F Disisto	Princes Freeway and Gippsland Railway	8242	127
C054	WL Reid	Princes Freeway and Gippsland Railway	8242	127
C056	WL Reid	Princes Freeway and Blacks Track	8242 8821 6578	127 491 426
C059	J Di Ciero	McDonalds Track	N/A	
C060	Morwell Field & Game Club	Witts Track & Varys Track	8581 8242	405 127
C062	A Battista	South Service Road & Vary Road	8242	127
C064	APM Forests Pty Ltd	Vary Road	8242 8581	127 412
C068	APM Forests Pty Ltd	Blacks Track & South Service Road (cnr)	8242	127
C070	R Brammall	Vary Road & Buckleys Track	8242 8581	127 412
C074	APM Forests Pty Ltd	Buckleys Track	8242	127
C076	APM Forests Pty Ltd	Buckleys Track	8242	127
C080	Amess Nominees P/L	Buckleys Track & Blacks Track (cnr)	8242	127
C082	A & M Rosato	Blacks Track & South Service Road (cnr)	8242 8761	127 167
C084	HK & VM Turner	Blacks Track	8242	127
C090	L Villella	Marretts Road & South Service Road (cnr)	8242 8761	127 167

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SEC Lease Number	Lessee	Street Address of Leased Land	Affected Titles	
			Volume	Folio
C096	A & M Rosato	Blacks Track & Buckleys Track (cnr)	8242	127
C098	HK & VM Turner	Buckleys Track and Jensens Lane	8242 8761	127 167
C133	A & M Rosato	Varys Track	8242	127
C171	NW & IM Cameron	East Levee Road	7417 7617 6947 6837 6372 6359 6298 6218 2018 5097 5097 6827 6233 7861	291 148 389 323 266 625 493 577 583 346 345 306 475 194
C172	H Godridge	Old Melbourne Road	8016	039
C176	NW & IM Cameron	Open Cut Perimeter Road & Gippsland Railway	6042 8821 4127 4127 6578 8242 4117 8583 9205 9205	380 491 362 361 426 127 216 790 110 129
C178	F Jewkes	Princes Freeway & Jensons Lane	6578 8821	426 491
C211	Z Spehar	Latrobe Road & Old Melbourne Road (cnr)	9271	205
C217	A Moyes	Maxwells and Morrisons Road & Old Sale Road	7148	536

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Sch. 3A

SEC Lease Number	Lessee	Street Address of Leased Land	Affected Titles	
			Volume	Folio
C218	RJ Hyland	Maxwells and Morrisons Road	8040	322
C219	Morwell Gun Club	Old Melbourne Road	9503	244
F2453	Commonwealth of Australia	Princes Freeway & Jensens Lane	6578 8821	426 491
LV 1827	Scout Association and Girl Guides Association	North Road	8323	962

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Table B

SEC Lease Number	Lessee	Description of Lease	Affected Titles	
			Volume	Folio
F6663 & F6680	Skilled Engineering Ltd A.C.N. 005 585 811	Central Workshops Yallourn	5115	853
F6661	NS Komatsu Pty Ltd A.C.N. 053 514 739	Transport Workshops Yallourn	5115	853
F6660	Gardner Perrott A.C.N. 000 164 938	Civil Services Depot (part)	5097	352
F6657	Deanmac Land Services Pty Ltd A.C.N. 062 799 731	Civil Services Depot (part)	9481 5115 5097	164 853 352
F6658	Deanmac Emergency Services Pty Ltd A.C.N. 006 953 126	Former Victorian Railways Buildings (Fire Training Centre)	9481 5115 5097	164 853 352
F6667	Vodafone Pty Ltd A.C.N. 056 161 045	Telecommunications Base Station and Mobile Network	9481	159

PART 3

Land in respect of which reservations are revoked

Item	Situation and area of land	Instrument and date of reservation	Description of land by reference to Government Gazette	Purpose of Reservation	Extent of revocation
1.	Parish of Maryvale, County of Buln Buln, 4.985 hectares	Order in Council dated 6 March 1939	Government Gazette dated 8 March 1939, page 827	Site for public recreation	The entire reserve
2.	Parish of Maryvale, County of Buln Buln, 3.440 hectares more or less	Order in Council dated 13 December 1960	Government Gazette dated 21 December 1960, page 4025	Site for public recreation	The entire reserve

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Sch. 3A

Item	Situation and area of land	Instrument and date of reservation	Description of land by reference to Government Gazette	Purpose of Reservation	Extent of revocation
3.	Parish of Maryvale, County of Buln Buln, 4.047 hectares	Order in Council dated 7 July 1890	Government Gazette dated 11 July 1890, page 2789	Site for supply of gravel	The entire reserve
4.	Parish of Narracan, County of Buln Buln, 3.746 hectares being Crown Allotment 63A, Section A	Order in Council dated 18 October 1977	Government Gazette dated 26 October 1977, page 3301	Site for public recreation	The entire reserve
5.	Parish of Narracan, County of Buln Buln, 2770 square metres, less an excision authorised by Order in Council dated 24 April 1951, being Crown Allotment 53, Section B	Order in Council dated 4 July 1939	Government Gazette dated 5 July 1939, page 2511	Site for a public hall	The remainder of the reserve

Item	Situation and area of land	Instrument and date of reservation	Description of land by reference to Government Gazette	Purpose of Reservation	Extent of revocation
6.	Bed and 40-23 metres from each bank of the La Trobe river, less authorised excisions	Order in Council dated 23 May 1881	Government Gazette dated 27 May 1881, page 1389	Site for public purposes	That part of the reserve delineated and coloured light green on a plan lodged in the Central Plan Office of the Department of Treasury and Finance and numbered LEGL/95-69
7.	Bed and 20-12 metres from each bank of the Morwell river	Order in Council dated 23 May 1881	Government Gazette dated 27 May 1881, page 1389	Site for public purposes	That part of the reserve delineated and coloured light green on the plans lodged in the Central Plan Office of the Department of Treasury and Finance and numbered LEGL/95-69 and LEGL/95-71.

Electricity Industry Act 1993
Act No. 130/1993

Sch. 3B

SCHEDULE 3B
LOY YANG LAND
PART 1

Sch. 3B
inserted by
No. 79/1995
s. 20.

Land to be Surrendered to the Crown

Table A

Folio of the Register

Volume	Folio	Volume	Folio
2442	231	6664	729
2694	681	7097	202
2921	102	7271	006
2921	103	7491	104
2921	104	7605	103
3067	204	7851	015
3190	928	8055	357
3190	929	8059	306
3319	733	8076	143
3568	508	8076	144
3599	718	8130	409
3977	273	8177	858
3977	274	8194	231
3989	704	8243	244
4124	781	8254	566
4200	841	8254	567
4315	899	8254	568
4393	583	8357	007
4591	155	8388	148
4719	732	8388	149
4722	270	8396	618
4798	524	8398	365
4808	451	8453	890
4831	115	8480	436
5481	034	8532	768
5552	381	8538	918
5767	290	8539	213
5874	705	8578	024
5875	900	8578	025
6333	585	8578	026
6620	959	8578	027
6664	728	8584	045

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Volume	Folio	Volume	Folio
8664	625	9187	989
8676	976	9187	990
8676	977	9187	991
8676	978	9187	992
8676	979	9187	993
8676	980	9187	994
8749	596	9187	995
8749	597	9203	921
8749	598	9252	481
8749	599	9310	254
8749	600	9371	328
8803	309	9386	018
8966	227	9391	278
8967	787	9428	090
9034	388	9468	119
9047	624	9535	373
9047	625	9535	374
9063	285	9538	202
9080	556	9538	204
9080	962	9538	205
9083	346	9538	206
9083	916	9538	207
9083	917	9548	748
9089	232	9548	749
9114	235	9818	874
9114	236	9861	130
9132	753	9861	131
9132	754	9861	132
9135	703	9956	667
9153	414	10061	285
9184	457	10061	286
9184	458	10061	287
9184	459	10092	270
9184	460	10092	271
9184	461	10092	272
9184	462	10214	069
9187	988		

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Sch. 3B

Table B
Former Certificates of Title

Volume	Folio	Volume	Folio
3314	715	9063	289
6006	142	9063	290
8223	317	9063	291
8936	695	9063	292
9063	279	9063	293
9063	280	9063	294
9063	281	9063	295
9063	282	9063	296
9063	283	9063	298
9063	284	9063	299
9063	287	9535	371
9063	288	9535	372

PART 2
Leases

The leased lands set out in this Part are shown generally delineated and shown cross-hatched pink or hatched pink or hatched purple and designated by SEC lease number on plan number LEGL./95-87 lodged in the Central Plan Office of the Department of Treasury and Finance. If there is an inconsistency between the leased land described in a lease set out in this Part and that leased land as shown on the plan, the lease prevails.

In this Part—

"CA" means Crown Allotment.

<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
D111	T. A. Phelan	West of Traralgon Creek and east of Traralgon Creek Road, part of CA's 76B, 76C and 76D, Parish of Traralgon.	4200 4798 6664	841 524 729
D114	K. W. Silvester	East of Traralgon Creek & west of Traralgon Creek Road, part of CA 7, Section A, Parish of Loy Yang.	9083	346

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<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
D115	C. & G. Pizzi	West of Traralgon Creek Road & east of Traralgon Creek, part of CA's 7A3 and 7, Parish of Loy Yang.	5552 9083	381 346
D118	R. T. & J. E. Dunbar	East of Traralgon Creek Road, part of CA 4F, Section A, Parish of Loy Yang & part of CA's 76E & 76F, Parish of Traralgon.	9391	278
D119	D. Hopman & R. McGregor	Adjacent to Traralgon Creek Road, part of CA 76C, Parish of Traralgon.	6664	729
D121	R. R. Rachiele & C. W. Scholten	East of Traralgon Creek Road & west of Depot Road, CA's 76A, 76A1 & 76B, Parish of Traralgon.	4124 4200 4831 8584 9135	781 841 115 045 703
D123	T. A. Phelan	East of Traralgon Creek Road & west of Depot Road, part of CA's 76B, 76C & 76D, Parish of Traralgon & CA 4H & part CA 4D, Section A, Parish of Loy Yang.	4200 5767 6664 6664	841 290 728 729
D130	M. J. Tucker	East of Depot Road, part of CA 4B, Section A, Parish of Loy Yang.	2921 2921 2921 3190 3190 3319 3568 5874 5875 9080 9083 9083 9114 9114	102 103 104 928 929 733 508 705 900 556 916 917 235 236

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Sch. 3B

<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
D131	A. Tucker	East of Depot Road, Lot 11, LP 4372, Parish of Loy Yang.	3568	508
D142	T. Van Der Veen	South side of Retreat Road, Lots 11, 12 and Part Lot 10 LP1532, Parish of Loy Yang.	9047 9047 9080	624 625 962
D143	C. J. Fleming	Traralgon–Gormandale Road & Melrossa Road, (north-east corner), part of CA's 4C and 4E, Section A, Parish of Loy Yang.	4808 8357 8396 8480 8539	451 007 618 436 213
D154	E. E. Macreadie	Traralgon–Gormandale Road & Melrossa Road, (south-east corner), parts of CA's 8 & 8B, Section A, Parish of Loy Yang.	9132 9132	753 754
D155	A. A. Jones	West of Melrossa Road, part of CA 8, Section A, Parish of Loy Yang.	9203	921
D156	J. Derham	Minniedale Road South, CA 6H, Parish of Loy Yang.	6333	585
D157	E. E. Macreadie	Traralgon–Gormandale Road & Melrossa Road, (north-west corner), CA's 6 & 6A1, Section A, Parish of Loy Yang.	8388 8388	148 149
D158	A. & A. Sheridan	Melrossa Road, Part CA 6B, Section A, Parish of Loy Yang.	7097	202
D160	B. D. & C. L. Hinson	Traralgon–Gormandale Road & Melrossa Road, (south-west corner), part of CA 5, Section A, Parish of Loy Yang.	8130	409

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<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
D162	G.V. Crawford	Traralgon–Gormandale Road & Minniedale Road, (north-east corner), CA 6A, Section A, Parish of Loy Yang.	4719	732
D163	F. & S. M. Onley	Hyland Highway & Minniedale Road, (south-east corner), part of CA 5, Section A, Parish of Loy Yang.	9386	018
D164	M. L. & J. L. Woolcock	Melrossa Road & Minniedale Road, (north-east corner), part of CA 9B, Section A, Parish of Loy Yang.	8966	227
D168	R. S. & L. A. Berry (lessees) R. J. & S. C. Smith (sub-lessees)	Bounded by Minniedale Road, Melrossa Road, Grevilles Road & Laurina Road, CA 9B, Section A, Parish of Loy Yang.	9184 9184 9184 9184 9184	457 458 459 460 461 462
D170	A. & S. Bolton	East of Minniedale Road North, part of CA 14K, Parish of Loy Yang.	7491	104
D172	I. R. & M. J. Cumming	North of Shields Road, part of CA 14L, Parish of Loy Yang.	9310	254
D174	A., H. & A. Sheridan	Bounded by Minniedale North Road, Shields Road & Broomfields Road, CA's 13D, 13D1, 13J, 13J1, 13J2, 13J3, 13O, 14H, 14J, 14M, 15, 15A & 15A2, Parish of Loy Yang.	3314 6006 8223	715 142 317
D180	J. B. Derham	North of Traralgon–Gormandale Road, Part of CA 15B & CA 13S, Parish of Loy Yang.	8664	625

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Sch. 3B

<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
D181	G. J. & R. L. McAinch	Minniedale Road & Traralgon–Gormandale Road, (north-west corner), part of CA 15C, Parish of Loy Yang.	9153	414
D182	N. H. & G. H. Paulet	East of Minniedale Road & south of Traralgon–Gormandale Road, part of CA's 15D & 15P, Parish of Loy Yang.	8803	309
D183	J. B. Derham	Traralgon–Gormandale Road & Cummings Lane, (north-east corner), CA 15P1, Parish of Loy Yang.	3977 3977 3989	273 274 704
D184	B. E. Farmer	Traralgon–Gormandale Road & Cummings Lane, (north-west corner), CA 15F, Parish of Loy Yang.	6620	959
D450	L. Bence	Traralgon Creek Road & Mattingley's Hill Road, (north-west corner), part of CA's 7B & 7A3, Section A, Parish of Loy Yang.	5552 8967	381 787
D451	R. J. Van Rossum	West of Traralgon Creek Road, part of CA's 7B, 7D, 7F & 7G, Section A, Parish of Loy Yang.	2442 4722 8254 8967	231 270 566 787
D452	G. A. Gair (lessee) R. J. Van Rossum (sub-lessee)	East of Traralgon Creek & west of Traralgon Creek Road, part of CA 7F, 7F2 & 7G, Section A, Parish of Loy Yang.	4722 8254 8254	270 566 568
D470	Shire of LaTrobe	East of Traralgon Creek Road, part of CA 7K1, Section A, Parish of Loy Yang.	8532	768

Electricity Industry Act 1993
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<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
D471	APM Forests Pty. Ltd. A.C.N. 004 285 705	South of Loy Yang Overburden Dump, part of CA's 8C & 17B, Parish of Loy Yang.	9956	667
D472	Shire of LaTrobe	Traralgon Creek Road, part of CA 7K1, Section A, Parish of Loy Yang.	8532 9034	768 388
D474	R. W. Herbert	East of Traralgon Creek Road, part of CA's 6K, 6K1, 6K2 & 7K1, Section A, Parish of Loy Yang.	3067 9034 9089 9428	204 388 232 090
D480	B. F. S. Hughes	North of Callignee South Road, part of CA's 6N, 6P, 6L, 6L1, 6L2, 6L3, LP69787 & LP 83054, Section A, Parish of Loy Yang.	4315 8578 8749 8749 10092	899 024 596 597 270
D498	J. Davis	North of Chester Park Road, part of CA 17A, Section A, Parish of Loy Yang.	8936	695
Part of D498A	M. J. O'Doherty	North of Chester Park Road, part of CA 17A & 8D, Section A, Parish of Loy Yang.	8936	695
D502	Dry Coal Pty Ltd A.C.N. 052 013 555 & Valley Char Pty Ltd A.C.N. 051 766 164	Bartons Lane, Parish of Loy Yang.	10214	069
D515	APM Forests Pty. Ltd. A.C.N. 004 285 705	Whitelaws Track, Lot 2, LP 113445, Parish of Loy Yang.	9861	130
D520	APM Forests Pty. Ltd. A.C.N. 004 285 705	Off Reids Road, part of CA 16D, Parish of Loy Yang.	8076 8076	143 144

Electricity Industry Act 1993
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Sch. 3B

<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
D530	M. A. & A. L. Cumming	Minniedale Road, CA's 15R1, 15Q & part of CA's 15E, 15R & 15R2, Parish of Loy Yang.	6620	959
D532	G. N. & H. E. Armstrong	West of Phillips Lane, CA 15K & part of 15K1, Parish of Loy Yang.	6620	959
D550	E. J. Stockdale	West of Scales Road, Lot 1, LP 119772, Parish of Loy Yang.	9187	988
D558	M. G. Armstrong	Bounded by Traralgon–Gormandale Road, Phillips Lane & Scales Road, Lots 2–8, LP 119772, Parish of Loy Yang.	9187 9187 9187 9187 9187 9187 9187	989 990 991 992 993 994 995
F6661	NS Komatsu Pty. Ltd. A.C.N. 053 514 739	Bartons Lane, Part CA 6P, Parish of Loy Yang.	10092	271

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PART 3

Encumbrances

In this Part—

"LYBPS" means Loy Yang B Power Station Pty Ltd A.C.N. 052 530 551

"MEA" means Mission Energy Australia Limited A.C.N. 055 563 785

<i>Volume</i>	<i>Folio</i>	<i>Caveat— Instrument No.</i>	<i>Caveator</i>	<i>Agreement</i>
9538	204	S298939J	LYBPS	A miscellaneous services agreement between LYBPS, SEC and MEA to grant an easement and give a restrictive covenant in favour of LYBPS and MEA, as described in the Caveat.
9538	204	S304710T	MEA	An agreement between LYBPS, SEC and MEA to grant an easement, in favour of MEA, its successors and assigns, as described in the Caveat.
9548	748	S298939J	LYBPS	A miscellaneous services agreement between LYBPS, SEC and MEA to grant an easement and give a restrictive covenant in favour of LYBPS and MEA, as described in the Caveat.
9548	748	S304710T	MEA	An agreement between LYBPS, SEC and MEA to grant an easement in favour of the MEA, its successors and assigns, as described in the Caveat.
9548	749	S298939J	LYBPS	A miscellaneous services agreement between LYBPS, SEC and MEA to grant an easement and give a restrictive covenant in favour of LYBPS and MEA, as described in the Caveat.

Electricity Industry Act 1993
Act No. 130/1993

Sch. 3B

<i>Volume</i>	<i>Folio</i>	<i>Caveat— Instrument No.</i>	<i>Caveator</i>	<i>Agreement</i>
9548	749	S304710T	MEA	An agreement between LYBPS, SEC and MEA to grant an easement in favour of the MEA, its successors and assigns, as described in the Caveat.
10092	270	S304711Q	MEA	An agreement between LYBPS, SEC and MEA to grant an easement in respect of a right of carriageway in favour of MEA, its successors and assigns, as described in the Caveat.
10092	270	S755607B	LYBPS	A miscellaneous services agreement between LYBPS, SEC, and MEA to grant an easement and give a restrictive covenant in favour of LYBPS and MEA, as described in the Caveat.
10092	271	S304711Q	MEA	An agreement between MEA, LYBPS and SEC to grant an easement in respect of a right of carriageway in favour of MEA, its successors and assigns, as described in the Caveat.
10092	271	S755607B	LYBPS	A miscellaneous services agreement between LYBPS, SEC and MEA to grant an easement and give a restrictive covenant in favour of the LYBPS and MEA, as described in the Caveat.
10092	272	S304711Q	MEA	An agreement between LYBPS, SEC and MEA to grant an easement in respect of a right of carriageway in favour of MEA, its successors and assigns, as described in the Caveat.

Electricity Industry Act 1993
Act No. 130/1993

<i>Volume</i>	<i>Folio</i>	<i>Caveat— Instrument No.</i>	<i>Caveator</i>	<i>Agreement</i>
10092	272	S755607B	LYBPS	A miscellaneous services agreement between LYBPS, SEC and MEA to grant an easement and give a restrictive covenant in favour of LYBPS and MEA, as described in the Caveat.
10214	069	S298939J	LYBPS	A miscellaneous services agreement between LYBPS, SEC and MEA to grant an easement and give a restrictive covenant in favour of LYBPS and MEA, as described in the Caveat.
10214	069	S298940J	LYBPS	A miscellaneous services agreement, between LYBPS, SEC and MEA to grant an easement and give a restrictive covenant in favour of LYBPS and MEA, as described in the Caveat.
10214	069	S304710T	MEA	An agreement between LYBPS, SEC and MEA to grant an easement in favour of the MEA, its successors and assigns, as described in the Caveat.
10214	069	S304711Q	MEA	An agreement between LYBPS, SEC and MEA to grant an easement in respect of a right of carriageway in favour of the caveator, its successors and assigns, as described in the Caveat.
10214	069	S304712M	MEA	An agreement between LYBPS, SEC and MEA to grant easements in favour of MEA its successors and assigns, as described in the Caveat.
10214	069	S755607B	LYBPS	A miscellaneous services agreement between LYBPS, SEC and MEA to grant an easement and give a restrictive covenant in favour of LYBPS and MEA, as described in the Caveat.

PART 4

Electricity Industry Act 1993
Act No. 130/1993

Land in respect of which reservation is revoked

<i>Situation and area of land</i>	<i>Instrument and date of reservation</i>	<i>Description of land by reference to Government Gazette</i>	<i>Description of Crown Grant issued</i>	<i>Purpose of Reservation</i>	<i>Extent of revocation</i>
Parish of Loy Yang, County of Buln Buln, 1214 square metres being Crown Allotment 6J1 Section A	Order in Council dated 19 August 1895	Government Gazette dated 23 August 1895, page 3058	Volume 3421 Folio 119	Site for Mechanics Institute and Free Library	The entire reserve

Sch. 3C
inserted by
No. 79/1995
s. 21,
amended by
Nos 35/1997
s. 17, 10/1998
s. 10(1)(c).

SCHEDULE 3C

HAZELWOOD LAND

PART 1

Land to be surrendered to the Crown

Table A

Folios of the Register

Volume	Folio	Volume	Folio
1448	440	8812	118
1470	890	8821	151
1554	701	8838	614
1657	253	8976	392
1707	218	9125	592
1811	185	9125	740
2089	659	9128	891
2230	864	9150	652
2571	042	9150	653
2575	852	9150	654
4589	615	9150	655
4589	616	9150	656
6197	249	9150	657
6493	568	9150	658
6582	286	9157	341
7437	364	9195	224
7603	183	9195	225
7603	184	9205	424
7603	185	9205	425
7603	186	9217	014
7716	078	9344	123
8184	935	9435	706
8208	402	9435	707
8217	219	9435	708
8221	207	9435	709
8242	655	9435	710
8263	536	9435	711
8274	748	9460	754
8274	867	9657	128
8679	364	9657	129
8769	328	9657	130

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Sch. 3C

Volume	Folio	Volume	Folio
9657	131	9821	475
9673	072	9861	133
9821	473	9861	134
9821	474	10135	584

Table B
Former Certificates of Title

Volume	Folio	Volume	Folio
1060	842	7342	299
2469	656	7342	300
2651	012	7790	157
2915	917	7831	186
2944	777	7973	089
3997	377	7986	117
4029	674	8053	479
4284	798	8083	706
4288	523	8104	521
4297	327	8169	193
4585	951	8201	269
4670	859	8216	797
5721	098	8234	759
5759	747	8243	733
5944	750	8243	734
6049	640	8263	093
6224	664	8263	156
6290	974	8334	025
6365	991	8434	017
6588	578	8453	800
6806	157	8461	264
7262	399	8478	942

PART 2

Leases

The leased lands set out in this Part are shown generally delineated and shown cross-hatched pink or hatched pink or hatched purple and designated by SEC lease number on plan number LEGL./95-86 lodged in the Central Plan Office of the Department of Treasury and Finance. If there is an inconsistency between the leased land described in a lease set out in this Part and that leased land as shown on the plan, the lease prevails.

Electricity Industry Act 1993
Act No. 130/1993

Table A

<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
C082	A. & M. Rosato	Blacks Track & South Service Road (south-east corner), part of CA's 27B & 48B, Section A, Parish of Narracan.	8242 8761	127 167
C090	L. Villella	Marretts Road & South Service Road, (south-west corner), part of CA's 27B & 48B, Section A, Parish of Narracan.	8242 8761	127 167
C098	H. K. & V. M. Turner	Buckley's Track & Jensens Lane, (north-west corner), part of CA's 27B & 48B, Parish of Narracan.	8242 8761	127 167
C164	M. & J. Rosato	Buckley's Track & Marretts Road, (north-east corner), CA 26A & part of CA 27A, Parish of Narracan.	9205 9205	424 425
C166	B. E. Cathie	Bounded by Morwell River, Princes Freeway, Marretts Road & Thorpdale Road, part of CA's 5, 5A, 5B, 27A, 28, 29 & 29B, Parish of Narracan & part of CA's 50 & 50A, Parish of Maryvale.	5692 6101 6578 8184 8208 8812 8838 9150 9150 9150 9157 9205 9217	322 127 426 935 402 118 614 653 654 658 341 425 014
C190	Latrobe Regional Water Authority	West of Morwell–Thorpdale Road & east of Morwell River Diversion Channel, part of CA 28, Parish of Narracan.	6101 8812	127 118

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<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
C194	Latrobe Regional Water Authority	Bounded by Morwell–Thorpdale Road & Princes Freeway, part of CA's 51 & 49A, Parish of Maryvale.	6493	568
			7603	183
			7603	184
			7603	185
			7603	186
C490	N. K. Wettenhall	North of Deans Track, CA 22A, Section A, Parish of Narracan.	6197	249
C491	R. G. Whykes	Deans Track & Marretts Lane, (south-east corner), part of CA's 5A, 5B, 5F & CA's 5C, 5D & 5E, Section A, Parish of Narracan.	9150	653
			9150	654
			9150	655
			9150	656
			9150	657
			9150	658
C493	J. D. Mountney	Bounded by Golden Gully Road, Driffield Road & Deans Track, CA 21, Section A, Parish of Narracan.	9460	754
C494	H. T. & P. R. Goldsmith	East of Driffield Road, CA 7A & part of CA's 7, 21 & 21A, Section A, Parish of Narracan.	5692	322
			8976	392
			9435	706
			9435	707
			9435	708
C504	B. I. McIntosh	East of Morwell–Thorpdale Road & west of Morwell River, part of CA's 5 & 28, Lot 1 & part of Lot 2, LP 125212, Parish of Narracan.	7437	364
			8208	402
			9657	128
			9657	129
			9657	131
C506	L. F. & J. M. Woodhead	Bounded by Brodribb Road, Morwell–Thorpdale Road & Varys Road, Part of CA's 4 & 19A, Section A, Parish of Narracan.	8184	935
			8263	536
			9657	130

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<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
C507	L. F. Woodhead	West of Open Cut Perimeter Road & east of C504 & C506, part of CA 5, Section A, Parish of Narracan.	7437 8208 8263 9657 9657	364 402 536 129 130
C508	B. E. Cathie	North of Brodribb Road, part of CA's D, G5, 41 & 42, Parish of Hazelwood & part of CA 19A, Parish of Narracan.	1707 4589 4589 6582 7973 8263	218 615 616 286 089 536
C530	L. F. Woodhead	East of Applegates Road, part of CA's G8 & G6, Parish of Hazelwood.	1470 8334	890 025
C532	T. Birkbeck	East of Applegates Road, part of CA's F6 & G5, Parish of Hazelwood.	7973	089
C536	C. C. McKay	North of Brodribb Road, part of CA's F6, G5 & G8, Parish of Hazelwood.	6806 7973	157 089
C542	J. J. & F. M. Lawless	Bounded by Applegates Road, Brodribb Road & Yinnar Road, part of CA's G5 & G5 ¹ , Parish of Hazelwood.	7973	089
C550	R. Didio	North of Brodribb Road, part of CA's G5 & G7, Parish of Hazelwood.	7973	089
C552	R. Didio	North of Brodribb Road, part of CA G8, Parish of Hazelwood.	6806	157
C570	A. Cook	North of Brodribb Road, part of CA 8A, Section A, Parish of Hazelwood.	8104	521

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<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
C572	LaTrobe Regional Commission (lessee) and Harrow Woods Pty. Ltd. A.C.N. 006 695 745 (sub-lessee)	Bounded by Hazelwood Pondage, Nadenbouschs Road & Black Bobs Lane, part of CA 37, Parish of Hazelwood.	8201	269
C579	R. Weir	Morwell Open Cut, Eastern Overburden Dump, part of CA 1C, Section A, Parish of Hazelwood.	2651 6290 8104 10135	012 974 521 584
C590	LaTrobe Regional Commission (lessee) and Hydropro Pty. Ltd. A.C.N. 060 447 074 (sub-lessee)	West of Nadenbouschs Road, part of CA 37, Parish of Hazelwood.	8201	269
C612	W. L. Reid & M. J. Dare	West of Monash Way & north of Brodribb Road, part of CA 1A, Section A, Parish of Hazelwood.	2651 2915 8083 8104 8242 8821 10135	012 917 706 521 655 151 584
C840	Shire of LaTrobe	East of Yinnar Road, part of CA 1, Parish of Hazelwood.	6224	664
C859	D. S. Cook	North of Switchback Road, part of CA's 1, F2, F3 & F4, Parish of Hazelwood.	5759 6224 7986	747 664 117
C860	Shire of LaTrobe	(Jeeralang Pony Club) North of Switchback Road, part of CA F10, Parish of Hazelwood.	6049	640

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<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
C884	LaTrobe Regional Commission	Bounded by Hazelwood Cooling Pond, Nadenbouschs Road and Black Bobs Lane, Lot 4 L.P. 120260, Parish of Hazelwood.	6049 8434 9861	640 017 134
C885	LaTrobe Regional Commission	Bounded by Hazelwood Cooling Pond, Nadenbouschs Road & Black Bobs Lane, Lots 1, 2 & part of Lot 3, LP 120260, Parish of Hazelwood.	6049 8201 8434 9195 9195 9861	640 269 017 224 225 133
C886	Liberty Images Pty. Ltd. A.C.N. 064 257 183	West of Nadenbouschs Road, part of CA F1, Parish of Hazelwood.	9861	133
F3468	Central Gippsland Region Water Authority	Part of CA 1C, Section A, Parish of Hazelwood.	7973 8053 8274	089 479 867
F3913	Central Gippsland Region Water Authority	Part of CA's 1B, 18 & 19, Parish of Hazelwood.	2651 2915 8083 8104 8242 8821	012 917 706 521 655 151
F6688	Australian Government Publishing Service	Wing 3 Lower, Morwell Administration Centre, Morwell.	8274	867
HFC01	Yallourn Energy Ltd. A.C.N. 065 325 224	Wing 2 Upper, Wing 4 Upper, Wing 5 & part of Registry area in Wing 6, Morwell Administration Centre, Morwell.	8274	867
HFC02	SEC	Wing 1 Lower & Archival storage within Wing 6 Basement, Morwell Administration Centre, Morwell.	8274	867

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Act No. 130/1993

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Table B

<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
C140	W. S. & M. A. Wilkinson & C. T. Gray	Bounded by Laws Track, Vary Road & Buckleys Track, part of CA 46A, Section A, Parish of Narracan.	8242 8761	126 167
C142	F. Disisto	South of Buckleys Track, part of CA 46A, Section A, Parish of Narracan.	8761	167
C144	B. A. Lawless	Bounded by Laws Track, Buckleys Track & Blacks Track, part of CA 46A, Section A, Parish of Narracan.	8761	167
C148	APM Forests Pty. Ltd. A.C.N. 004 285 705	East of Vary Road, Part of CA 46A, Section A, Parish of Narracan.	8242 8761	126 167
C150	APM Forests Pty. Ltd. A.C.N. 004 285 705	Vary Road & Deans Track (south-west corner), part of CA 46A, Section A, Parish of Narracan.	8761	167
C154	N. A. & A. M. Morgan	South of Laws Track, part of CA 46A, Section A, Parish of Narracan.	8761	167
C156	APM Forests Pty. Ltd. A.C.N. 004 285 705	North of Deans Track, part of CA 46A, Section A, Parish of Narracan.	8761	167
C158	Golden Gully Farms (J. Jeffrey)	Bounded by Deans Track, Blacks Track & Laws Track, part of CA 46A, Section A, Parish of Narracan.	8761	167
C160	A. & M. Rosato	Blacks Track & Buckleys Track, (north-west corner), part of CA 26A, Section A, Parish of Narracan.	8761	167
C184	Shire of LaTrobe	Part of CA 48A, Parish of Maryvale.	9344	123

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<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
C191	D. W. Robinson	North of Princes Freeway, part of CA's 49A & 11F, Parish of Maryvale.	7716 8221 8274	078 207 748
C195	C. G. Horsley	North of Princes Freeway, part of CA 11F, Parish of Maryvale.	8274	748
C197	Shire of LaTrobe	Bounded by Morwell– Yallourn Railway, Driffield Road & Avondale Road, part of CA 49A, Parish of Maryvale.	7716	078
C302	Y. Sturk	Monash Way, south of Gippsland Railway, part of CA 8B, Parish of Maryvale.	8242	655
C303	D. V. & P. J. Evenden	Bounded by Gippsland Railway, Tramway Road & Monash Way, part of CA 8B, Parish of Maryvale.	8242	655
C304	Y. Sturk	Monash Way, south of Gippsland Railway, part of CA 8B, Parish of Maryvale.	8242	655
C305	Shire of LaTrobe	Bounded by Commercial Road, Princes Freeway & Monash Way, part of CA 8A, Parish of Maryvale.	8242	655
C569	LaTrobe Regional Water Authority	South of Brodribb Road, part of CA G7, Parish of Hazelwood.	8104	521
C577	A. J. McFarlane	Bounded by Brodribb Road, Monash Way & Nadenbouschs Road, CA 23A, Section A, Parish of Hazelwood.	8104 8821 9500	521 151 574
C580	APM Forests Pty. Ltd. A.C.N. 004 285 705	East of Monash Way, CA 9J & part of CA's 9 & 9H, Section A, Parish of Hazelwood.	8821 8769	151 328

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<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
C581	B. Slade	East of Monash Way, Lot 2, LP72440, Parish of Hazelwood.	8679	364
C584	APM Forests Pty. Ltd. A.C.N. 004 285 705	East of Monash Way, part of CA's 9H, 16, 18A & 19, Section A, Parish of Hazelwood.	2651 7790 7831 8083 8821	012 157 186 706 151
C602	J. A. & R. J. Thomas	Bounded by Commercial Road & Monash Way, part of CA 8A, Parish of Maryvale.	10135	584
C606	K. W. Buckley	Firmins Lane & Tramway Road, (north-east corner), part of CA 8B, Parish of Maryvale.	8242	655
C610	Latrobe Regional Commission	Porters Road & Monash Way, (north-west corner), part of CA 1B, Section A, Parish of Hazelwood.	8242	655
C612	W. L. Reid & M. J. Dare	North of Monash Way & west of Porters Road, part of CA 1A, Section A, Parish of Hazelwood.	2651 2915 8083 8104 8242 8821 10135	012 917 706 521 655 151 584
C614	D. V. & P. J. Evenden	East of Monash Way, part of CA 46A, Section A, Parish of Hazelwood.	8242	655
C615	Pinegro Products Pty. Ltd. A.C.N. 005 531 546	West of Monash Way, part of CA 1A & 1B, Parish of Hazelwood.	8242 10135	655 584
F1996	Gas & Fuel Corporation of Victoria	Part of CA 18A, Section A, Parish of Hazelwood.	2651 7831 8242	012 186 655

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<i>SEC Lease Number</i>	<i>Lessee</i>	<i>Location</i>	<i>Affected Titles</i>	
			<i>Volume</i>	<i>Folio</i>
F3913	Central Gippsland Region Water Authority	Part of CA 19, Parish of Hazelwood.	8242	655
F6658	Deanmac Emergency Services Pty Ltd A.C.N. 006 953 126	Part of CA 11H, Parish of Maryvale.	8217	219
F6662	Brambles Australia Ltd. A.C.N. 000 164 938	Part of CA 11H, Parish of Maryvale.	8217 8274	219 867
F6665	Siemens Ltd. A.C.N. 004 347 880	Julia Street, part of CA 11H, Parish of Maryvale.	8217 8274	219 867
F6668	WBM Pty Ltd A.C.N. 010 830 421	East–West Access Road, west of Lower Ridge Road, part of CA 55C, Parish of Maryvale.	8274	867
F6682	Terich Industries Pty Ltd A.C.N. 007 366 887	Julia Street, part of CA 11H, Parish of Maryvale.	8217	219
F6684	Victorian Power Exchange	Lower Ridge Road, Morwell.	8274	867
F6685	Lease Plan Australia Ltd A.C.N. 006 923 011	Part of CA 11H, Parish of Maryvale.	8217	219

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PART 3

Roads Corporation land to be surrendered

Folio of the Register

Volume	Folio	Volume	Folio
5692	322	9699	375
9699	372	9699	376
9699	373	9699	378
9699	374	9699	379

PART 4

Land in respect of which reservation is revoked

<i>Situation and area of land</i>	<i>Instrument and date of reservation</i>	<i>Description of land by reference to Government Gazette</i>	<i>Purpose of Reservation</i>	<i>Extent of revocation</i>
Bed and 20·12 metres from each bank of the Morwell River less excision authorised by Act No. 56/1995	Order in Council dated 23 May 1881	Government Gazette dated 27 May 1881, page 1389	Site for public purposes	That part of the reserve delineated and coloured light green on a plan lodged in the Central Plan Office of the Department of Treasury and Finance and numbered LEGL./95-84

PART 5

Land in respect of which reservations are revoked

<i>Item</i>	<i>Situation and area of land</i>	<i>Instrument and date of reservation</i>	<i>Description of land by reference to Government Gazette</i>	<i>Purpose of reservation</i>	<i>Extent of revocation</i>
1.	Bed and 30·18 metres from each bank of the Goulburn River less excisions authorised by Act No. 5909 and Act No. 9922.	Order in Council dated 23 May 1881	Government Gazette dated 27 May 1881, page 1389.	Site for public purposes.	That part of the reserve delineated and coloured light green on the plan lodged in the Central Plan Office of the Office of Surveyor General and numbered LEGL./97-26
2.	Bed and 30·18 metres from each bank of the Mitta Mitta River less excisions authorised by Act No. 6413 and Act No. 37/1989.	Order in Council dated 23 May 1881	Government Gazette dated 27 May 1881, page 1389.	Site for public purposes.	That part of the reserve delineated and coloured light green on the plan lodged in the Central Plan Office of the Office of Surveyor General and numbered LEGL./97-26

Electricity Industry Act 1993
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Sch. 4

* * * * *

Sch. 4
amended by
No. 53/1994
s. 23(3)(a)–(f),
repealed by
No. 56/1995
s. 34.

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NOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 28 October 1993

Legislative Council: 1 December 1993

The long title for the Bill for this Act was "A Bill relating to the restructuring of the electricity supply industry, to amend the **State Electricity Commission Act 1958**, to make consequential amendments to other Acts and for other purposes."

The **Electricity Industry Act 1993** was assented to on 14 December 1993 and came into operation as follows:

Part 1 (sections 1–6), sections 7–10, 13–16, 20–23, 30, Part 5 Division 1 (sections 62, 63), section 76, Part 6 (sections 80–84), section 86, Part 8 (sections 93–97), sections 110, 111, 119, 121 on 14 December 1993: section 2(1); sections 26, 85, 98, 99 on 14 December 1993: Special Gazette (No. 93) 14 December 1993 page 1; rest of Act on 3 January 1994: Special Gazette (No. 97) 23 December 1993 page 1.

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Notes

2. Table of Amendments

This Version incorporates amendments made to the **Electricity Industry Act 1993** by Acts and subordinate instruments.

Borrowing and Investment Powers (Further Amendment) Act 1994, No. 4/1994

Assent Date: 27.4.94
Commencement Date: 14.12.93: s. 2
Current State: All of Act in operation

Financial Management Act 1994, No. 18/1994

Assent Date: 10.5.94
Commencement Date: S. 66(Sch. 2 item 6) on 1.7.94: s. 2(2)
Current State: This information relates only to the provision/s amending the **Electricity Industry Act 1993**

Financial Management (Consequential Amendments) Act 1994, No. 31/1994

Assent Date: 31.5.94
Commencement Date: S. 4(Sch. 2 item 26) on 1.1.95: Government Gazette 28.7.94 p. 2055
Current State: This information relates only to the provision/s amending the **Electricity Industry Act 1993**

Electricity Industry (Amendment) Act 1994, No. 53/1994 (as amended by No. 8/1996)

Assent Date: 15.6.94
Commencement Date: S. 23 on 14.12.93: s. 2(2); ss 4(2), 14(1), 21(1)(3), 22, 24 on 29.6.94: Special Gazette (No. 39) 29.6.94 p. 1—see **Interpretation of Legislation Act 1984**; s. 12 on 3.10.94: Special Gazette (No. 57) 23.8.94 p. 1; ss 4(1)(a)(b)(e)–(g)(3)–(5), 5–7, 10, 11, 13, 14(2), 15–20, 21(2), 25 on 3.10.94: Special Gazette (No. 64) 27.9.94 p. 1; ss 4(1)(c)(d), 8 on 1.7.97: Government Gazette 5.6.97 p. 1281; s. 9 repealed, uncommenced by No. 8/1996
Current State: This information relates only to the provision/s amending the **Electricity Industry Act 1993**

Electricity Industry (Further Amendment) Act 1994, No. 110/1994 (as amended by Nos 56/1995, 10/1998)

Assent Date: 20.12.94
Commencement Date: Ss 6, 7, 8(a)(b), 9–33 on 20.12.94: Special Gazette (No. 100) 20.12.94 p. 1; s. 8(c) repealed, uncommenced by No. 56/1995
Current State: This information relates only to the provision/s amending the **Electricity Industry Act 1993**

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Equal Opportunity Act 1995, No. 42/1995 (as amended by No. 79/1995)

Assent Date: 14.6.95
Commencement Date: S. 224 on 5.10.95: Government Gazette 28.9.95 p. 2731; Sch. 2 items 13.1–13.3 on 1.1.96: Government Gazette 21.12.95 p. 3571
Current State: This information relates only to the provision/s amending the **Electricity Industry Act 1993**

Electricity Industry (Amendment) Act 1995, No. 56/1995 (as amended by No. 79/1995)

Assent Date: 20.6.95
Commencement Date: S. 67(2) on 20.12.94: s. 2(2); ss 4(1)(3), 5–8, 11, 13–36, 44(3) on 20.6.95; s. 12 on 1.7.95: Special Gazette (No. 52) 20.6.95 p. 1; ss 9, 10, 46(2) on 8.8.95: Special Gazette (No. 78) 8.8.95 p. 1; ss 37, 38 on 28.11.95: Special Gazette (No. 116) 28.11.95 p. 1; s. 4(2) on 20.6.96: s. 2(5)
Current State: This information relates only to the provision/s amending the **Electricity Industry Act 1993**

Electricity Industry (Further Amendment) Act 1995, No. 79/1995

Assent Date: 28.11.95
Commencement Date: Ss 4–6, 8, 10, 13–17 on 28.11.95: Special Gazette (No. 116) 28.11.95 p. 1; ss 7, 9, 11, 12 on 28.11.95: s 2(1); Pt 3 (ss 18–21) on 14.12.95: Government Gazette 14.12.95 p. 3488—see **Interpretation of Legislation Act 1984**
Current State: This information relates only to the provision/s amending the **Electricity Industry Act 1993**

Superannuation Acts (Amendment) Act 1996, No. 4/1996

Assent Date: 18.6.96
Commencement Date: S. 134(2) on 30.6.96: s. 2(12)
Current State: This information relates only to the provision/s amending the **Electricity Industry Act 1993**

Electricity Industry (Amendment) Act 1996, No. 8/1996 (as amended by No. 35/1997)

Assent Date: 25.6.96
Commencement Date: S. 20 on 20.12.94: s. 2(6); s. 4(1) on 20.6.95: s. 2(2); ss 4(2)–(5), 5, 7–13, 15, 16 on 25.6.96: s. 2(1)
Current State: This information relates only to the provision/s amending the **Electricity Industry Act 1993**

Electricity Industry (Further Amendment) Act 1996, No. 48/1996

Assent Date: 26.11.96
Commencement Date: 26.11.96: s. 2
Current State: All of Act in operation

Electricity Industry Act 1993
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Notes

Electricity Industry (Loy Yang B) Act 1997, No. 14/1997

Assent Date: 6.5.97
Commencement Date: S. 11 on 18.4.97: s. 2(2); Pt 1 (ss 1–3) on 6.5.97:
s. 2(1); rest of Act on 8.5.97: Special Gazette (No. 50)
6.5.97 p. 1
Current State: All of Act in operation

Electricity Industry (Miscellaneous Amendment) Act 1997, No. 35/1997 (as amended by No. 55/1997)

Assent Date: 3.6.97
Commencement Date: Pt 1 (ss 1–3) on 3.6.97: s. 2(1); rest of Act (*except*
ss 10–12, 15, 20(1)(2), 21(3)(a)) on 3.6.97: Special
Gazette (No. 58) 3.6.97 p. 1; ss 20(1)(2), 21(3)(a) on
27.11.97: Government Gazette 27.11.97 p. 3225; s. 10
never proclaimed, repealed by No. 55/1997
Current State: This information relates only to the provision/s
amending the **Electricity Industry Act 1993**

Electricity Industry (Further Miscellaneous Amendment) Act 1997, No. 55/1997

Assent Date: 21.10.97
Commencement Date: Ss 3, 4(1)(3), 5, 7, 9–15 on 21.10.97: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Electricity Industry Act 1993**

Electricity Industry (Amendment) Act 1998, No. 10/1998

Assent Date: 28.4.98
Commencement Date: S. 10(2) on 24.12.94: s. 2(2); s. 6 on 28.4.98: s. 2(1); ss
4, 7, 8, 10(1) on 1.6.98: s. 2(3); s. 5 on 1.7.98:
Current State: This information relates only to the provision/s
amending the **Electricity Industry Act 1993**

Electricity Safety Act 1998, No. 25/1998

Assent Date: 12.5.98
Commencement Date: Ss 164, 165(1)–(4)(6) on 1.7.98:
Current State: This information relates only to the provision/s
amending the **Electricity Industry Act 1993**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Electricity Industry Act 1993**

3. Explanatory Details

¹ S. 13: Section 5(3) of the **Electricity Industry (Amendment) Act 1998**, No. 10/1998 reads as follows:

5. *Power Net Victoria dissolved*

- (3) On the commencement of sub-section (1)—
- (a) Power Net Victoria is abolished;
 - (b) all directors of Power Net Victoria go out of office;
 - (c) the chief executive officer of Power Net Victoria goes out of office.

² Pt 2 Div. 3 (*repealed*): Section 8(2) of the **Electricity Industry (Amendment) Act 1994**, No. 53/1994 reads as follows:

8. *Abolition of Electricity Services Victoria*

- (2) On the commencement of sub-section (1)—
- (a) Electricity Services Victoria is abolished;
 - (b) all directors of Electricity Services Victoria go out of office;
 - (c) the chief executive officer of Electricity Services Victoria goes out of office.

³ S. 163: Section 11(3) of the **Electricity Industry (Further Amendment) Act 1995**, No. 79/1995 reads as follows:

11. *Provisions relating to licences*

- (3) A condition in a licence issued under the Principal Act before the commencement of this section specifying procedures for variation of the conditions of the licence by the Treasurer is deemed to be as valid as it would have been if section 163 of the Principal Act had been in force as amended by sub-section (2) of this section when the licence was issued.