

1995  
THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Urban Services)

**Electricity and Water (Corporatisation)  
(Consequential Amendments) Bill 1995**

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**A BILL  
FOR**

**An Act to amend certain laws of the Territory in  
consequence of the corporatisation of the body  
providing electricity, water and sewerage services**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

**Short title**

- 5     **1.** This Act may be cited as the *Electricity and Water (Corporatisation) (Consequential Amendments) Act 1995*.

**Commencement**

- 2.** This Act commences on the day referred to in subsection 2 (2) of the *Electricity and Water (Corporatisation) (Consequential Provisions) Act 1995*.

### Amendments of Acts

3. The Acts specified in the Schedule are amended as set out in that Schedule.

### Transitional provisions

5 4. (1) In this section—

“Authority” means the former Australian Capital Territory Electricity and Water Authority established by the *Electricity and Water Act 1988*;

“Company” means ACTEW Corporation Limited;

10 “relevant day” means the day referred to in section 2.

(2) For the purpose of enabling compliance with section 93 of the *Audit Act 1989* in respect of the year ending on 30 June 1995, the Company shall, on behalf of the Authority, prepare and submit a report of the operations of the Authority in respect of that year.

15 (3) Subject to subsection (2), an act or thing done by or on behalf of the Authority under another law before the relevant day shall, for the purposes of the operation of that law after that date, be taken to have been done by or on behalf of the Company.

20 (4) Notwithstanding the amendment of section 79 of the *Electricity and Water Act 1988* effected by section 3, where before the relevant day—

(a) a certificate had been given in accordance with that section for the purpose of proceedings; and

(b) those proceedings had not been disposed of before the relevant day;

25 the certificate continues to be evidence of the matters it states for the purpose of those proceedings as if this Act had not been passed.

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## SCHEDULE

Section 3

### AMENDMENTS OF ACTS

30 *Electricity and Water Act 1988*

#### Title—

Repeal the title, substitute the following title:

“An Act relating to the supply of electricity and water and the provision of drainage and sewerage services”.

**SCHEDULE—continued**

**Subsection 3 (1) (definitions of “appoint”, “appointed member”, “Authority”, “Chairperson”, “Chief Executive Officer”, “Deputy Chairperson”, “joint venture”, “member”, “securities”, “share” and “staff”)—**

5 Omit the definitions.

**Subsection 3 (1)—**

Insert the following definitions:

“ ‘Authority’ means the former Australian Capital Territory Electricity and Water Authority established by this Act;

10 ‘Company’ means ACTEW Corporation Limited;”.

**Subsections 3 (2), (3) and (4)—**

Omit the subsections.

**Parts II, III, IV, V and VI—**

Repeal the Parts.

15 **Section 74C—**

Repeal the section.

**Section 79—**

Omit “the Chief Executive Officer”, substitute “an officer of the Company”.

20 **Section 79A—**

Repeal the section.

**Section 82—**

Repeal the section, substitute the following section:

**Regulations**

25 “82. (1) The Executive may make regulations for the purposes of this Act.

“(2) Without limiting the generality of subsection (1), the regulations—

(a) may make provision for or in relation to—

30 (i) carrying out plumbing and drainage work and building work affecting drains or sewers or the supply of water;

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*Electricity and Water (Corporatisation)*  
*(Consequential Amendments) No. , 1995*

**SCHEDULE—continued**

- (i) the types of materials and methods of construction to be used for plumbing, drainage and sewerage work;
- (ii) water closets, urinals, sinks, troughs, lavatories or baths;
- 5 (iv) protecting the quality of water and the infrastructure associated with the supply of water;
- (v) supplying, appropriating and using water and avoiding the wastage of water;
- (vi) meters for measuring the amount of water supplied or sewerage collected and requiring the use of meters;
- 10 (vii) discharging matter into drains or sewers;
- (viii) protecting the infrastructure associated with the collection, disposal and treatment of sewage;
- (ix) connecting equipment to infrastructure related to the supply of water or to drains and sewers; and
- 15 (x) removing or repairing defective plumbing work, drains or sewers; and
- (b) may prescribe, for offences against the regulations, penalties not exceeding a fine of—
- (i) if the offender is a body corporate—50 penalty units; or
- 20 (ii) if the offender is a natural person—10 penalty units.

“(3) The Canberra Sewerage and Water Supply Regulations and the Electricity and Water Regulations, as in force immediately before the commencement of this section, continue in force as if made under this section.”.

25 **Sections 83, 84, 85, 86 and 87—**

Repeal the sections.

**Subsection 88 (1)—**

Omit “former”, substitute “Commonwealth”.

**Section 88—**

30 Add at the end the following subsections:

“(2) A reference to the Authority in an instrument made, granted or issued before 1 July 1995 and in force immediately before that date has

**SCHEDULE—continued**

effect, on and after that date, as if that reference were (except in relation to matters that occurred before that date) a reference to the Company.

“(3) In this section—

‘commencement date’ means 1 July 1988;

- 5 ‘Commonwealth Authority’ means the Australian Capital Territory Electricity Authority constituted under the *Australian Capital Territory Electricity Supply Act 1962* of the Commonwealth.”.

**Sections 89, 90 and 91—**

Repeal the sections.

10 **Further amendments—**

1. The following provisions are amended by omitting “Authority” (wherever occurring) and substituting “Company”:

- 15 Subsection 3 (1) (definitions of “electrical installation” and “sewerage services”), heading to Part VII, subsections 48 (1) and (3), 50 (1), (2), (3), (4) and (5), 51 (1), (2) and (3) and 55 (1) and (3), section 56, subsections 63 (1) and 66 (1), section 69, subsections 70 (2), 73 (3) and 74D (1), sections 76, 77 and 78, subsection 78A (1) and sections 79 and 81.

2. The following provisions are amended by omitting “Chief Executive Officer” (wherever occurring) and substituting “Company”:

- 20 Subsections 53 (1) and (2) and 54 (1) and (2).

***Public Interest Disclosure Act 1994***

**Section 3 (definition of “Territory instrumentality”)—**

Insert “, subject to subsection (2),” after “has”.

**Section 3—**

- 25 Insert the following subsection:

“(2) The Minister may, by notice in the *Gazette*, declare that a specified body is or is not a Territory instrumentality for the purposes of this Act.”.

***Public Sector Management Act 1994***

- 30 **Subsection 3 (1) (definition of “autonomous instrumentality”)—**

Omit the definition, substitute the following definition:

“ ‘autonomous instrumentality’ means the Office of the Director of Public Prosecutions;”.

**SCHEDULE—continued**

**Section 5—**

After paragraph (f) insert the following paragraph:

“(g) ACTEW Corporation Limited”.

**Subsection 57 (2)—**

5 Omit the subsection, substitute the following subsection:

“(2) The power of the Commissioner under subsection (1) shall, in relation to the classification of offices in the Office of the Director of Public Prosecutions, be exercised by the Director of Public Prosecutions.”.

**Section 59—**

10 Repeal the section, substitute the following section:

**Application of subsection 58 (2) to Office of the Director of Public Prosecutions**

15 “59. The Commissioner shall not give a direction under subsection 58 (2) in relation to an office in the Office of the Director of Public Prosecutions.”.

**Section 64—**

Repeal the section, substitute the following section:

**Application**

20 “64. (1) Unless the contrary intention appears, the provisions of this Part apply, subject to subsection (2), in relation to the Office of the Director of Public Prosecutions as if a reference in those provisions to the Commissioner were a reference to the Director of Public Prosecutions.

“(2) Sections 73 and 74 do not apply in relation to the Office of the Director of Public Prosecutions.”.

25 **Paragraph 68 (1) (a)—**

Omit “the Australian Capital Territory Electricity and Water Authority or”.

**Paragraph 68 (1) (b)—**

30 (a) Omit “the Australian Capital Territory Electricity and Water Authority or”.

(b) Omit “the Authority or the Director of Public Prosecutions respectively”, substitute “the Director of Public Prosecutions”.

**SCHEDULE—continued**

**Section 75—**

Repeal the section, substitute the following section:

**Appointment or promotion of SES officers in Office of the Director of Public Prosecutions**

- 5       “75. Where the Director of Public Prosecutions receives a recommendation for the appointment or promotion of a person to a Senior Executive Service Office in the Office of the Director of Public Prosecutions, the Director may, after consultation with the Commissioner, appoint or promote the person to fill that office.”

10                   *Territory Owned Corporations Act 1990*

**Subsection 3 (1) (definition of “company”)—**

Omit “a law of the Commonwealth, a State or another Territory dealing with the formation or regulation of companies”, substitute “the Corporations Law”.

15   **Subsection 3 (1) (definition of “Corporations Act”)—**

Omit the definition.

**Subsection 3 (1) (definition of “subsidiary”, paragraph (a))—**

Omit “Corporations Act”, substitute “Corporations Law”.

**Section 4—**

- 20       Repeal the section, substitute the following section:

**Application**

“4. In its application to ACTEW Corporation Limited, this Act applies subject to the modifications specified in Schedule 4.”

25   **Subsection 14 (2) (definition of “partially owned subsidiary”, paragraph (a))—**

Omit “Corporations Act”, substitute “Corporations Law”.

**Subsection 22 (5) (definition of “subsidiary”)—**

Omit “Corporations Act”, substitute “Corporations Law”.

**Schedule 1—**

- 30       Insert before “Totalcare Industries Limited” the following item:

“ACTEW Corporation Limited”.

**SCHEDULE—continued**

**Schedule 4—**

Add at the end the following Schedule:

**SCHEDULE 4**

Section 4

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**MODIFICATIONS IN RELATION TO ACTEW CORPORATION  
LIMITED**

**Interpretation**

1. In this Schedule, unless the contrary intention appears—

10 “Authority” means the former Australian Capital Territory Electricity  
and Water Authority established by the *Electricity and Water Act*  
1988;

“Company” means ACTEW Corporation Limited.

**Operation of section 14**

2. Section 14 applies as if subsection (1) were omitted and the  
following subsections substituted:

15 “14. (1) Subject to subsection (1A), a Territory owned corporation or  
a subsidiary shall not enter into a specified transaction if, as a result of the  
transaction, a company would or could become a partially owned subsidiary  
of the Territory owned corporation or subsidiary.

“(1A) Subsection (1) does not apply to the Company.”.

20 **Operation of section 16**

3. Section 16 applies as if the following subsection were inserted:

“(4) In this section—

25 ‘subsidiary’, in relation to a Territory owned corporation, means a body  
corporate that under the Corporations Law is a subsidiary of the  
corporation.”.

**Operation of section 30**

4. (1) In this section—

“acquired”, in relation to an asset, means an acquisition of the asset for  
the purposes of Part IIIA of the Commonwealth Act;

30 “asset” has the same meaning as in Part IIIA of the Commonwealth Act;

“Commonwealth Act” means the *Income Tax Assessment Act 1936* of  
the Commonwealth;



**SCHEDULE—continued**

- “cost base” has the meaning given by section 160ZH of the Commonwealth Act;
- “disposed of”, in relation to an asset, means a disposal of the asset for the purposes of Part IIIA of the Commonwealth Act;
- 5 “indexed cost base” has the meaning given by section 160ZH of the Commonwealth Act;
- “reduced cost base” has the meaning given by section 160ZH of the Commonwealth Act;
- 10 “vested” means vested under section 4 of the *Electricity and Water (Corporatisation) (Consequential Provisions) Act 1995*.
- (2) For the purposes of section 30, an asset vested in the Company which was acquired by the Authority before 20 September 1985 shall be taken to have been acquired by the Company before that date.
- 15 (3) For the purposes of section 30, where an asset vested in the Company—
- (a) was acquired by the Authority on or after 20 September 1985; and
- (b) is disposed of by the Company;
- 20 the asset shall be taken to have been acquired by the Company at a cost base to the Company equal to the cost base that would have been the cost base, the indexed cost base or the reduced cost base, as the case may be, to the Authority of that asset if the asset had been disposed of by the Authority at the time it was disposed of by the Company.

**NOTE**

**Penalty units**

See section 33AA of the *Interpretation Act 1967*

**Section headings**

On the day on which the *Electricity and Water Act 1988* is amended by this Act, in addition to any alteration of section headings indicated in the text of this Act, headings to sections of the *Electricity and Water Act 1988* are altered as set out in the following table:

Section	Alteration
63	Omit from the heading "Authority", substitute "Company".
81	Omit from the heading "Authority", substitute "Company".