

Energy Assets (Restructuring and Disposal) Bill 2006

Explanatory Notes

General Outline

Policy Objectives

The purpose of the Bill is to facilitate the disposal of particular gas and electricity businesses of energy entities, including by facilitating the restructure or sale of the entities.

Reasons for the Bill

Legislation is required to facilitate the disposal of particular gas and electricity businesses of energy entities.

Achievement of the Objectives

- The Bill achieves its main policy objectives by:
- facilitating the restructure of the businesses of the energy entities to package the businesses into discrete forms for disposal and also ensure the continued operation of the remaining energy entities;
- conferring on the Treasurer the power by transfer order to effect the transfer of businesses, assets and liabilities of energy entities;
- facilitating the disclosure of information of energy entities in relation to the project;
- facilitating a speedy process to deal with the appropriate licensing of energy entities under the *Gas Supply Act 2003* and the *Electricity Act 1994*;
- conferring on the Treasurer the authority to give directions to the board of an energy entity requiring it to do something the Treasurer considers necessary or convenient for effectively carrying out the project, which includes making decisions that would normally be done under other Acts by other persons;

- dealing with the effect on legal relationships of the restructure and disposal of energy entities; and
- amending other legislation to facilitate the implementation of the project.

Alternatives to the Bill

The policy objectives can only be implemented through primary legislation.

Estimated Cost for Government Implementation

The cost of administering the Bill is expected to be minor and can be defrayed by the proceeds of sale of the particular gas and electricity businesses.

Consistency with Fundamental Legislative Principles

On 26 April 2006, the Government announced a number of measures for the reform and restructuring of the Queensland energy retail industry. This announcement adopts the recommendations of the Boston Consulting Report to exit Queensland gas and electricity retail industries. As part of this reform process, the Queensland Government proposes to sell the electricity and gas retail businesses of Energex, Energex's subsidiary ("Sun Retail Pty Ltd"), Energex's Allgas distribution network and elements of contestable and selected non-contestable retail businesses of Ergon.

The Government Sales Team has commenced:

- (i) the process of identifying and examining the assets and liabilities of the energy entities for the purpose of restructuring the businesses of the energy entities, and divestment of particular gas and electricity businesses; and
- (ii) the sale processes for the Energex's Allgas distribution network and the first electricity sale package, consisting of Sun Retail Pty Ltd with approximately 800,000 customers and the LPG business and the separate gas retail business.

The Bill is essential to enable the Queensland Government to exit responsibly from the electricity and gas retail industries. The restructuring of the energy entities for disposal will be a complex commercial and legislative process due to the historical development of government owned entities in the Queensland energy sector, the national regulatory scheme for

the electricity market, and the impact of competition laws, which in the past led to Queensland establishing two separate retail businesses - the modern versions of Sun Retail Pty Ltd and Ergon Energy Pty Ltd.

The timeframe for the sale of the appropriately structured energy entities is set for the end of 2006, prior to the anticipated commencement of Full Retail Competition ("FRC") in the Queensland electricity and gas industry in 2007. This sale timeframe has been set in order to provide commercial certainty in the Queensland electricity and gas industries. Purchasers of the energy entities need to be given sufficient time to prepare these entities for the introduction of FRC either by implementing new systems or integrating the entities within the purchasers' current business structures. The provisions of the Bill are also necessary to ensure that the timeframe for the State's exit from the Queensland electricity and gas retail industries is not exploited by competitors in the market to the detriment of the State and the people of Queensland. The majority of the provisions under the Bill, particularly in relation to the Minister's powers, will cease to operate on the onset of FRC in Queensland.

The Bill is essential to facilitate the restructure of the selected energy entities within this strict timeframe and to ensure that the best commercial outcome is achieved for the State and for its gas and electricity customers. Any delay in the restructure or disposal processes will reduce the commercial value of the businesses being sold and will potentially increase the State's exposure to loss following the onset of FRC, as identified in the Boston Consulting Report.

The Bill is designed to deal with a complex range of novel issues that arise out of the restructure of the selected energy entities within the current legislative framework that regulates these entities, and the regulatory framework to be introduced for FRC. Special legislation is required to facilitate the full implementation of the divestment of the particular energy businesses of Energex and Ergon. South Australia, New South Wales, Western Australia and Victoria also introduced special legislation to facilitate the rationalisation of their electricity entities.

The Bill raises the following fundamental legislative principles:

- (i) Rights and liberties of individuals, disclosure of confidential information – *Legislative Standards Act section 4(3)* & conferring immunity from liability - *Legislative Standards Act section 4(3)(h)*.

Clauses 55 and 56 of the Bill operate to authorise the disclosure of information in the possession or control of an energy entity to those persons who are involved in the project or have entered into a

confidentiality agreement mentioned in clause 55, and other energy entities (including any employee or agent).

To further assist the disclosure of information for the purposes of the restructure and disposal processes, clause 56(2) compels an energy entity to comply with a request by the Minister for the disclosure of information for the purpose of the project, and clause 57(2) deems that where consent is required to do something under the Act, such as disclosing information, consent is taken to be given unconditionally.

A disclosure of information under clauses 55, 56 or 57 may operate to affect third parties who have entered into commercial contracts with the energy entities. The restructure and disposal of the energy entities cannot be completed within the strict timeframe without sharing or transferring information between energy entities or providing persons involved in the project and prospective purchasers with access to all relevant commercial information. There are a substantial number of contracts within each of the energy entities with differing requirements for the disclosure of information. Given the timeframe involved for the sale of these entities, it is not logistically possible to contact all third parties and obtain their consent for the disclosure of the information.

Clauses 56 and 57 also contain provisions for the protection of the State, energy entities and persons involved in the project, when disclosing information for the purpose of the project. Clause 56 provides that a person acting honestly in the disclosure or use of information under clauses 55 or 56 is not liable civilly, criminally or under an administrative process, whilst clause 57 provides protection to the State and other prescribed entities from liability for all things done under the Act (e.g. disclosing information). These provisions will assist in the restructure and disposal processes by authorising the flow of information between energy entities, the project team and potential purchasers.

- (ii) Power to make a gazette notice overriding other laws and instruments - *Legislative Standards Act section 4(4)* & conferring immunity from liability - *Legislative Standards Act section 4(3)(h)*.

Clause 9 of the Bill authorises the Minister to undertake a range of actions, by gazette notice, for the purpose of the project. A transfer notice under clause 9 has effect despite any other law or instrument. The effect of clause 9 is to enable the speedy creation of a number of commercially viable businesses. A transfer notice issued under clause 9 is the simplest mechanism to restructure the government owned

businesses within the strict timeframe. The protection from liability provided to energy entities and persons involved in the project under clause 57 will also apply to action taken under a transfer notice under clause 9.

Given the substantial number of commercial arrangements between third parties and energy entities, it would be impractical to negotiate with all of the third parties within the timeframe. All of the energy entities being restructured are government owned entities and upon restructure will still be government owned, therefore, it is considered that the rights of third parties under commercial arrangements will not be greatly affected.

Clauses 9 and 57 are necessary to ensure that third parties with commercial relationships with the energy entities do not seize the opportunity to exploit the State's restructuring of its energy entities. Given the significance of this project and strict timeframe, third parties may seek to renegotiate the provisions of their commercial agreements or delay the restructure in order to further their own commercial interests to the detriment of the State and the people of Queensland. For example, third parties could withhold their consent to the change of ownership of an energy entity, which they would ordinarily grant in a normal commercial process. The common law provides that third parties to a contract must not withhold unreasonably their consent. However, third parties may delay giving their consent, or attach unreasonable terms to their consent, because they are fully aware that the time constraints for the project do not permit the State to pursue legal proceedings against them.

- (iii) Rights and liberties of individuals, facilitation of evidence by certificate - *Legislative Standards Act section 4(3) and 4(3)(a)*.

Clause 50 of the Bill provides that a decision under the Bill is final and conclusive and is not reviewable under the *Judicial Review Act 1991* or otherwise. Clause 61 of the Bill provides that a signed Minister's certificate is conclusive evidence in relation to a thing or action taken under the Bill.

Clauses 50 and 61 are necessary due to the strict timeframe for the completion of the project. Any review of a decision made, or action taken, under the Bill will have significant adverse financial implications for the State and would hinder the restructure and disposal processes of the selected energy entities. The Minister's decisions are limited to the purposes of the project, exercisable for a prescribed timeframe, and are directed solely at facilitating the

restructure and disposal of the selected energy businesses for the benefit of the State and the people of Queensland. The provisions are also necessary to ensure commercial certainty for any purchaser of the selected energy entities from the State.

- (iv) Power to make a gazette notice overriding other laws and instruments -*Legislative Standards Act section 4(4)*.

Clause 42 operates with clause 41, if there has been a change in relation to host retail entities and their retail areas. To give effect to these changes, the Minister may amend the “parties provision” of a standard customer sale contract as set out in an approved industry code. The regulator has approved a new Electricity Industry Code which is required to be approved by regulation. The new code will set out the standard customer sale contract and makes express references to the existing host retail entities. These references will be inaccurate, following the restructure of the energy entities.

The standard customer sale contract states the rights and obligations of host retail entities and their customers. Clause 42 is essential to ensure that a customer may readily identify who is obligated to provide customer retail services to their premises on the face of the standard customer sale contract. An amendment of the standard customer sale contract must coincide with the restructuring of the energy entities and, therefore, clause 42 is a simple and efficient mechanism to update the “parties provision” of the standard customer sale contract.

Consultation

The Government has established a Steering Committee for the project, and the Committee is aware of and supports the need for the Bill. The Full Retail Competition Implementation Team has assisted Treasury officers in formulating commercial and policy solutions in relation to the interaction of the Bill and the *Electricity Act 1994* to ensure that the terms of the Bill are consistent with the proposed implementation for Full Retail Competition in Queensland. After consultation with the Department of Energy officers, Treasury officers consider that the Bill is workable and can operate concurrently with the Energy Minister and regulator’s functions under the *Gas Supply Act 2003* and the *Electricity Act 1994*. The implementation of the project (including some parts of the Bill) is more difficult but it will be possible to work with the Department of Energy to resolve these issues. Treasury has consulted with the State Archivist, who is satisfied with the Government Sales Team’s proposal to deal with the

disposal of the records in relation to energy entities. The Government Sales Team and Office of State Revenue officers have agreed on the proposed amendment in section 81 of the *CAC Act*.

Notes on Provisions

Part 1 Preliminary

Clause 1 specifies the short title of the Act.

Clause 2 sets out the purpose of the Act as being to facilitate the disposal of particular gas and electricity businesses of energy entities, including by facilitating the restructure or sale of the entities.

Clause 3 provides for the extraterritorial application of the Act.

Part 2 Interpretation

Clause 4 provides for a dictionary in the Schedule to the Bill which defines particular words used in the Act.

Clause 5 defines the term “energy entity”. The definition of “energy entity” does not mean all gas and electricity entities operating in Queensland, but is limited to the energy entities involved in the project.

Clause 6 defines the term “project”. The definition of “project” is limited to the specific steps required to achieve the policy objectives.

Clause 7 provides that a reference to a function in the Act includes a power and a reference to performing a function includes exercising a power.

Part 3 Ministerial powers and activities relating to the project

Clause 8 provides that the Minister may take any necessary or incidental action for the purposes of facilitating the disposal of an energy entity or of a business, asset or liability of an energy entity, and to ensure the continued operation of energy entities. For example, the Minister may decide the most appropriate way to dispose of a business of an energy entity. The operation of this clause is limited to the purpose of the project and only in relation to energy entities.

Clause 9 provides that the Minister may, by gazette notice, do a number of things for the purposes of the project. For example, the Minister may, by gazette notice, transfer an asset and related records from an energy entity to another energy entity. The Minister's power under clause 9 is limited to the purpose of the project.

Clause 10 provides limitations on the Minister's power to second employees of an energy entity under clause 9. For example, the secondment of an employee under a transfer notice must not reduce the employee's status or unreasonably change the employee's duties, without the employee's consent.

Clause 11 provides that the Minister may give a direction to the board of an energy entity requiring it to do something necessary and convenient to assist in the disposal of an energy entity or the business, assets or liabilities of an energy entity. A board is required to comply with a direction given pursuant to this section. This clause is similar to provisions relating to Ministerial directions under the *Electricity Act 1994*.

Part 4 Gas Authorities

Division 1 General

Clause 12 defines the terms "authority" and "Gas Act" for the purposes of Part 4 of the Act.

Clause 13 provides that words that are defined in the Gas Act and used in Part 4 of the Act have the same meaning as in the Gas Act.

Clause 14 provides that the Gas Act applies to an authority issued under Part 4 of the Act as if the authority had been issued under the Gas Act. This clause ensures that all authorities whether issued under the Act or the Gas Act will be regulated in the same way.

Clause 15 provides that the Minister may perform particular functions of the regulator in relation to energy entities for the purpose of the project until the date of the commencement of FRC in Queensland. However, the Minister's power to perform a particular function of the regulator under clause 15 does not limit the regulator's functions under the Gas Act. An action taken by the Minister under this section will have the same effect as an action by the regulator under the Gas Act.

Clause 16 provides that a decision by the Minister under Part 4 of the Act cannot be reviewed, stayed or appealed under the Gas Act, chapter 6, part 1.

Division 2 Distribution authorities

Clause 17 provides that the Minister may issue a distribution authority to an energy entity. The distribution authority may be issued on conditions that the Minister considers appropriate and for a particular term. If the distribution authority is not issued for a specific term, the authority will continue in force until cancelled under this Act or the Gas Act.

Clause 18 limits the energy entities to which the Minister may issue a distribution authority to provide customer connection services relating to processed natural gas, to those entities who do not sell processed natural gas transported through a covered pipeline.

Clause 19 provides for a notification to be made to the regulator and requires the regulator to publish a notice about the authority in a Statewide newspaper following the issue of a retail authority to an energy entity.

Clause 20 provides that the Minister may amend a distribution authority that has been issued to an energy entity under this Act or the Gas Act by written notice, if the amendment is considered necessary or desirable by the Minister. The Minister cannot amend the conditions that are imposed on all distribution authorities under chapter 2, part 1, division 2 of the Gas Act.

Clause 21 provides that the Minister may cancel a distribution authority issued to an energy entity under this Act or the Gas Act by written notice, if

the Minister considers that the cancellation is necessary or desirable. The procedures for the cancellation of a distribution authority set out in chapter 2, part 1, division 3 of the Gas Act do not apply to a cancellation by the Minister under this section of the Act.

Clause 22 provides that the Minister may transfer a distribution authority that has been issued under this Act or the Gas Act from an energy entity to another energy entity by written notice to the relevant energy entities. The procedure for transfers set out in chapter 2, part 1, division 4, subdivision 2 of the Gas Act does not apply to transfers made by the Minister under this section of the Act.

Clause 23 provides that the Minister may approve the surrender of a distribution authority issued to an energy entity under this Act or the Gas Act.

Division 3 Retail authorities

Clause 24 provides that the Minister may issue a retail authority to an energy entity. The Minister may impose conditions on the retail authority that the Minister considers appropriate.

Clause 25 limits the Minister's power to issue an area retail authority to those areas over which there is an existing retail authority. Clause 25 also limits the energy entities to which the Minister may issue a retail authority to provide customer retail services relating to processed natural gas to be transported through a pipeline to those entities who do not provide customer connection services relating to processed natural gas transported through a covered pipeline.

Clause 26 requires the Minister to notify the regulator after issuing a retail authority under Part 4 and requires the regulator to publish a notice about the authority in a Statewide newspaper following the issue of a retail authority to an energy entity.

Clause 27 provides that the Minister may amend a retail authority issued to an energy entity under this Act or the Gas Act by written notice, if the amendment is considered necessary or desirable by the Minister. The Minister cannot amend a condition that is imposed on all retail authorities under chapter 3, part 1, division 2 of the Gas Act.

Clause 28 provides that the Minister may cancel a retail authority issued to an energy entity under this Act or the Gas Act by written notice, if the

Minister considers that the cancellation is necessary or desirable. The procedures for the cancellation of a retail authority set out in chapter 3, part 1, division 3 of the Gas Act do not apply to a cancellation by the Minister under this section of the Act.

Clause 29 provides that the Minister may transfer a retail authority that has been issued under this Act or the Gas Act from one energy entity to another energy entity, by written notice, to the relevant energy entities. The procedure for transfers set out in chapter 3, part 1, division 4, subdivision 2 of the Gas Act does not apply to transfers made by the Minister under this section of the Act.

Clause 30 provides that the Minister may approve the surrender of a retail authority that has been issued to an energy entity under this Act or the Gas Act. Where a surrender is approved by the Minister under this section of the Act the approval of the regulator under section 197 of the Gas Act is not required.

Division 4 Other Matters

Clause 31 confers on the Minister the power to apply, by gazette notice, notified prices to an energy entity where the current notified prices do not apply to the energy entity or to the energy entity's retail area. Notified prices are the prices notified under section 228 of the Gas Act. The gazette notice stops applying to the energy entity, if the pricing entity issues a later gazette notice under the Gas Act.

Part 5 Electricity Authorities

Division 1 Preliminary

Clause 32 defines a number of terms for the purposes of part 5 of the Act including "acquiring entity", "authority", "Electricity Act", "market customer", "non-market customer", "prescribed entity" and "sale entity".

Clause 33 provides that words that are defined in the Electricity Act and used in Part 5 of the Act will have the same meaning as in the Electricity Act.

Division 2 Issue of authorities and other dealings

Clause 34 provides that the Electricity Act applies to an authority issued under Part 5 of the Act as if the authority had been issued under the Electricity Act. This ensures that all authorities whether or not issued under the Act or the Electricity Act will be regulated in the same way.

Clause 35 provides that the Minister may perform particular functions of the regulator in relation to relevant entities for the purpose of the project until the commencement of FRC in Queensland. However, the Minister's power to perform a particular function of the regulator does not limit the regulator's functions under the Electricity Act. An action taken by the Minister under this section of the Act will have the same effect as an action by the regulator under the Electricity Act.

Clause 36 provides that a decision by the Minister under Part 5 of the Act cannot be reviewed, stayed or appealed under the Electricity Act, chapter 10.

Clause 37 provides that the Minister may issue an authority to an energy entity or prescribed entity. An authority may be issued for a particular term, may state a specific retail area and may impose conditions on the authority as the Minister considers appropriate. The procedures for the issue of retail authorities set out in chapter 9, part 4, division 1 of the Electricity Act do not apply to an authority issued by the Minister under the Act.

Clause 38 limits the Minister's power to issue authorities with a stated retail area if another authority with the same retail area is already in force. Also, the Minister must not issue a retail authority to a distribution entity.

Clause 39 provides that the Minister may amend an authority, or its conditions, or cancel an authority issued under Part 5 of the Act or the Electricity Act with the agreement of the prescribed entity, or in the case of an energy entity, if the Minister considers the action is necessary or desirable. The procedures under chapter 5, part 4 and chapter 9, part 4, division 2 of the Electricity Act for disciplinary action against electricity retailers or amendment of retail authorities do not apply to amendments or cancellations by the Minister under Part 5 of the Act.

Clause 40 provides that the Minister may consent to the surrender of an authority by an energy entity or a prescribed entity. As soon as practicable,

the Minister is required to inform the regulator that the Minister has consented to the surrender of an authority under this clause.

Division 3 Matters associated with dealings with authorities

Clause 41 applies before the FRC day, if there are changes to host retail entities (including the establishment of a new host retail entity) and their retail areas. As a consequence of changes to host retail entities and their retail areas, this clause deems that a customer has entered into a standard customer sale contract with the appropriate host retail entity. Clause 40 applies to energy entities and prescribed entities and does not affect rights or obligations that accrued under any contract before it ended under this clause. Clause 41(4) provides that a pre-transfer day actual or estimated reading of a customer's premises is deemed to have been taken at the end of the transfer day. This clause does not affect a customer's right to dispute the amount of any bill received from a retail entity.

Clause 42 operates with clause 41, if there has been a change in relation to host retail entities and their retail areas. To give effect to these changes, the Minister may amend the "parties provision" of a standard customer sale contract as set out in an approved industry code. An industry code amended under this clause continues to be an approved industry code and does not affect the power to further amend the industry code under the Electricity Act.

Clause 43 provides that the Minister may apply, by gazette notice, the notified prices to an energy entity or prescribed entity in relation to the entity's non-contestable customers, where notified prices for a retail entity do not include the particular energy entity or prescribed entity. Notified prices are the notified prices for a retail entity under section 90 of the Electricity Act. The gazette notice stops applying to the energy entity or prescribed entity if the pricing entity issues a later gazette notice under the Electricity Act.

Division 4 Operation of authorities and related matters

Clause 44 provides that on the FRC day, Ergon Energy, an acquiring entity or a sale entity is authorised to provide customer retail services to non-market customers at their premises, despite Ergon Energy, the acquiring entity or the sale entity not holding a retail authority with a stated area under the Electricity Act. A customer of Ergon Energy, an acquiring entity or a sale entity is taken to continue to have a standard customer sale contract with Ergon Energy, the acquiring entity or sale entity from the FRC date. A standard customer sale contract ends under its terms or under the Electricity Act.

Clause 45 clarifies that a customer's status as a non-market customer is not affected by anything done under section 44 of the Act. *Clause 44* operates with *Clause 45* to deem that there is a standard customer sale contract between any new host retail entity, or a host retail entity with an amended retail area, and a customer as a result of the project.

Part 6 Application of other laws and instruments

Clause 46 provides for the validity of acts done under the Act despite contrary provisions under any other Act or instrument.

Clause 47 is a displacement provision for the purposes of section 5F of the *Corporations Act 2001(Cth)*.

Clause 48 provides that no duty under the *Duties Act 2001* is payable in relation to anything done under a transfer notice issued by the Minister under the Act.

Clause 49 provides that where a transfer notice or project direction results in the disposal of a public record, the public record is taken to be disposed of under legal authority, justification or excuse for the purposes of section 13 of the *Public Records Act 2002*.

Clause 50 provides that a decision made under the Act is final and conclusive and is not subject to challenge or review under the *Judicial Review Act 1991*, or otherwise.

Part 7 Miscellaneous

Clause 51 provides that a regulation may prescribe a day on which a law about retail competition in the gas or electricity industry commences in Queensland to be the FRC day for the Act.

Clause 52 provides that the Minister may not perform a function under Parts 3, 4 or 5 of the Act on or after FRC day.

Clause 53 provides that after publishing a gazette notice under clauses 31 or 43, the Minister must notify the energy Minister.

Clause 54 provides that the registrar of titles may without formal application register the transfer of an asset or liability under a transfer notice issued by the Minister under the Act. However, the registrar of titles must register the transfer if a written application is made by a transferee entity. This clause also requires the registration of a transaction related to a transfer under a transfer notice even if the transferee entity has not been registered as a proprietor of the asset or liability provided that the transaction is effected by an instrument otherwise in registrable form. In addition, this clause provides that the registrar of titles is not obliged to enquire as to whether an asset or liability has been transferred under a transfer notice provided that the asset or liability is registered in the name of a transferor entity before registering a dealing.

Clause 55 provides that a prospective purchaser may enter into a confidentiality agreement with the State for the purpose of obtaining access to information in the possession or control of an energy entity.

Clause 56(1) provides that a person may disclose information in the possession or control of an energy entity for the purpose of the project. Clause 56(1) limits disclosure to those persons who are involved with the project or have entered into a confidentiality agreement mentioned in clause 55, and to energy entities (including any employee or agent). Clause 56(2) compels an energy entity or its board to comply with a request by the Minister for the disclosure of information for the purpose of the project. For example, if the Minister requests an energy entity to disclose information to a person involved in the project for the vendor data room, the energy entity is required by law to disclose such information. A person, who in acting honestly discloses or uses information under clause 56 or pursuant to a confidentiality agreement mentioned in clause 55, is not liable in relation to any civil, criminal or other administrative action under the Act in relation to that use or disclosure.

Clause 57 provides that existing legal relationships continue despite anything done under the Act and protects the State and other prescribed entities from liability for things done under the Act. Clause 57(2) and (3) provide that where notice or consent is required to do something under the Act that notice or consent is taken to be given unconditionally.

Clauses 55, 56 and 57 are read together to facilitate the restructure and disposal of the selected energy entity assets. For example, if a commercial agreement contains a confidentiality clause permitting the disclosure of confidential information to another person if required by law, clause 56(2) will be regarded as a sufficient lawful authority to do so. If a commercial agreement includes a condition that certain information (including terms of the relevant agreement) cannot be disclosed to any person without that third party's consent, clause 57 will operate to override that condition by deeming that consent has been given unconditionally. Clause 55 will ensure that a prospective purchaser who is the recipient of such information is subject to confidentiality obligations that may be attached to the information.

Clause 58 preserves all rights, benefits, entitlements or remuneration of employees seconded from an energy entity to another energy entity as part of any action taken to facilitate the disposal of the assets and liabilities of an energy entity to the extent permitted by the *Workplace Relations Act 1996 (Cth)*.

Clause 59 preserves all rights, benefits, entitlements or remuneration of employees transferred from an energy entity to another energy entity as part of any action taken to facilitate the disposal of the assets and liabilities of an energy entity to the extent permitted by the *Workplace Relations Act 1996 (Cth)*.

Clause 60 provides that the Minister may delegate the Minister's functions under the Act to the chief executive, except for the power to issue a transfer notice under clause 9 of the Act.

Clause 61 provides that the Minister's certificate is conclusive evidence that a stated thing was, or is being done for the purpose of facilitating the disposal of the assets and liabilities of an energy entity, or that person is, or was at a stated time involved in the process of facilitating the disposal of the assets and liabilities of an energy entity, or that a company was established for the purpose of facilitating the disposal of the assets and liabilities of an energy entity.

Clause 62 provides that the Governor in Council may make regulations under the Act.

Clause 63 provides that the amendment of the *Government Owned Corporations Regulation 2004* by the Act does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

Part 8 Amendment of other laws

Division 1 Amendment of the Community Ambulance Cover Act 2003

Clause 64 provides that Division 1 of Part 8 of the Act amends the *Community Ambulance Cover Act 2003*.

Clause 65 omits section 81 of the *Community Ambulance Cover Act 2003* and inserts a new section 81. The *Community Ambulance Cover Act 2003* imposes a levy on certain electricity sale arrangements that are in place for the supply of electricity in Queensland by electricity retailers. Under the Act, electricity retailers act as agents of the Commissioner for collection of the levy and related functions. The Act specifies the functions that electricity retailers must undertake in collecting the levy. These functions, together with other functions, are also specified in administration agreements made between the Commissioner, the State of Queensland and certain electricity retailers.

For commercial reasons, an electricity retailer may decide to subcontract some or all of its business processes. As the Community Ambulance Cover levy is included in electricity accounts, these subcontracts may involve subcontracting revenue collection functions of electricity retailers under the *Community Ambulance Cover Act 2003*. Consequently, the *Community Ambulance Cover Act 2003* provides that any such subcontract requires the approval of the Commissioner of State Revenue. Where a subcontract has been entered into, the obligations of the electricity retailer under the *Community Ambulance Cover Act 2003* are unaffected. In addition, the subcontractor is also liable to comply with those same statutory obligations.

This amendment provides that functions or parts of functions of an electricity retailer under the Act may also be subcontracted to further tiers of subcontractor (ie sub-subcontracts etc). However, the written approval of the Commissioner of State Revenue must be obtained for each such contract.

The existing provisions relating to authorised subcontractors, such as those dealing with the obligations of the subcontractor and electricity retailer in relation to the subcontracted functions, use of personal confidential information, and receipt of documents on behalf of the Commissioner, will also be applied to all tiers of subcontract.

Division 2 Amendment of Electricity Act 1994

Clause 66 provides that Division 2 of Part 8 of the Act amends the *Electricity Act 1994*.

Clause 67 amends section 48 of the *Electricity Act 1994* to specify that a retail area may be defined by geographical areas and/or particular premises.

Clause 68 amends section 64C(3)(a) of the *Electricity Act 1994* to insert a reference to Ergon Energy Pty Ltd ACN 078 875 902.

Clause 69 inserts a definition of “national metering identifier” in Schedule 5 of the *Electricity Act*.

Division 3 Amendment of Government Owned Corporations Act 1993

Clause 70 provides that Division 3 of Part 8 of the Act amends the *Government Owned Corporations Act 1993*.

Clause 71 amends section 145(1)(b) of the *Government Owned Corporations Act 1993*.

Clause 72 amends section 146(1)(b) of the *Government Owned Corporations Act 1993*.

Division 4 Amendment of Government Owned Corporations Regulation 2004

Clause 73 provides that Division 4 of Part 8 of the Act amends the *Government Owned Corporations Regulation 2004*.

Clause 74 amends the *Government Owned Corporations Regulation 2004* to omit Parts 5 and 6.

Clause 75 amends the *Government Owned Corporations Regulation 2004* to omit Schedules 3 and 4.

Schedule

Contains a dictionary which defines particular words used in the Act.