



Snowy Hydro Corporatisation Act 1997

No. 176, 1997 as amended

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About this compilation

This compilation

This is a compilation of the *Snowy Hydro Corporatisation Act 1997* as in force on 1 July 2014. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 16 July 2014.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

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**An Act to reform the Snowy Mountains
Hydro-electric Scheme by corporatising the Snowy
Mountains Hydro-electric Authority and making
related changes to the Scheme, and for related
purposes**

Part 1—Preliminary

1 Short title

This Act may be cited as the *Snowy Hydro Corporatisation Act 1997*.

2 Commencement

- (1) Parts 1 and 2, section 11, Divisions 2 and 3 of Part 3, sections 25, 47, 48, 49, 50, 56, 57 and 58, subsection 63(1) and Part 1 of Schedule 2 commence on the day on which this Act receives the Royal Assent.
- (2) The remaining provisions commence on a day or days to be fixed by Proclamation.
- (3) A proclamation fixing a day for the commencement of section 59 is not to be made unless:
 - (a) a public inquiry, sponsored by the Governments of New South Wales and Victoria, has been held with respect to environmental issues arising out of the current pattern of water flows in rivers and streams, caused by the operation of the Snowy Mountains Scheme, and the Minister is satisfied with the adequacy of the conduct, outcome and planned implementation of the inquiry, having regard to the continuing viability of the Scheme; and
 - (b) the Minister is satisfied that the Governments of New South Wales and Victoria have agreed to that section commencing on that day.

3 Object of Act

- (1) The object of this Act is to reform the Snowy Mountains Hydro-electric Scheme by corporatising the Snowy Mountains Hydro-electric Authority and making related changes to the Scheme.
- (2) It is the intention of the Parliament that this Act:
 - (a) is to operate concurrently with the New South Wales Corporatisation Act and the Victorian Corporatisation Act; and
 - (b) is to have effect only to the extent to which it is within the legislative power of the Parliament.

4 Simplified outline

The following is a simplified outline of this Act:

- This Act provides for the abolition of the Snowy Mountains Hydro-electric Authority and makes provision for the Commonwealth, New South Wales and Victoria to agree as to the identification of the Authority's debts.
- The Authority's assets and liabilities in relation to its Snowy hydro undertaking (other than its electricity transmission undertaking) are to be transferred to Snowy Hydro Company (Snowy Hydro Limited).
- The Authority's assets and liabilities in relation to its electricity transmission undertaking are to be transferred to TransGrid (New South Wales Electricity Transmission Authority).
- The Authority's borrowings (other than any borrowings from the Commonwealth) may be taken over by the Commonwealth before the abolition of the Authority and replaced by a debt owed to the Commonwealth.

- The Authority's employees are to be transferred to Snowy Hydro Limited.

5 Interpretation

- (1) In this Act, unless the contrary intention appears:

assets 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, and includes:

- (a) money, securities, choses in action and documents; and
- (b) rights, powers, privileges and immunities (whether present or future and whether vested or contingent), except any immunity or privilege of the Crown in any capacity.

authorised person, in a provision of Part 5, means a person appointed under section 57 for the purposes of that provision.

Commonwealth record has the same meaning as in the *Archives Act 1983*.

corporatisation date means the date on which the *Snowy Mountains Hydro-electric Power Act 1949* is repealed by this Act.

DFRDB Act means the *Defence Force Retirement and Death Benefits Act 1973*.

exempt matter means:

- (a) the issue or transfer of shares in the Snowy Hydro Company to the Commonwealth, New South Wales or Victoria or a person acting on behalf of the Commonwealth, New South Wales or Victoria; or
- (b) the operation of the provisions of this Act, the New South Wales Corporatisation Act and the Victorian Corporatisation Act relating to the transfer of assets and liabilities to the Snowy Hydro Company or TransGrid; or
- (c) an agreement referred to in section 48 or any agreement under the New South Wales Corporatisation Act or the

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Victorian Corporatisation Act to which New South Wales or Victoria is a party; or

- (d) a debt of the Snowy Hydro Company to the Commonwealth at the corporatisation date (including the refinancing of such a debt); or
- (e) giving effect to any of the above.

existing Snowy electricity transmission undertaking means the assets and liabilities of the Snowy Mountains Hydro-electric Authority, the Snowy Mountains Council, the Commonwealth, New South Wales, Victoria, or authorities of the Commonwealth, New South Wales or Victoria, that are transferred to TransGrid by orders under this Act, the New South Wales Corporatisation Act or the Victorian Corporatisation Act.

existing Snowy hydro undertaking means:

- (a) the assets and liabilities of the Snowy Mountains Hydro-electric Authority and the Snowy Mountains Council that are transferred to the Snowy Hydro Company by this Act, the New South Wales Corporatisation Act or the Victorian Corporatisation Act; and
- (b) the assets and liabilities of the Commonwealth, New South Wales, Victoria, or authorities of the Commonwealth, New South Wales or Victoria, that are transferred to the Snowy Hydro Company by orders under this Act, the New South Wales Corporatisation Act or the Victorian Corporatisation Act.

Finance Minister means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

liabilities means all liabilities, debts and obligations (whether present or future and whether vested or contingent).

Long Service Leave Act means the *Long Service Leave (Commonwealth Employees) Act 1976* as in force immediately before the corporatisation date.

Maternity Leave Act means the *Maternity Leave (Commonwealth Employees) Act 1973* as in force immediately before the corporatisation date.

New South Wales Corporatisation Act means the *Snowy Hydro Corporatisation Act 1997* of New South Wales.

share, in relation to a company, means a share in the capital of the company.

Snowy Hydro Company or ***Company*** means the company incorporated, or to be incorporated, by the name Snowy Hydro Limited.

Snowy hydro-group company or ***hydro-group company*** means the Snowy Hydro Company or a subsidiary of that Company.

Snowy Mountains Council means the Snowy Mountains Council referred to in Part VI of the agreement set out in Schedule 1 to the *Snowy Mountains Hydro-electric Power Act 1949*.

Snowy Mountains Hydro-electric Authority or ***Authority*** means the Snowy Mountains Hydro-electric Authority referred to in the *Snowy Mountains Hydro-electric Power Act 1949*.

transferred employee means a person who, under section 23, is taken to have been engaged as an employee of the Company.

TransGrid means the New South Wales Electricity Transmission Authority constituted under the *Electricity Transmission Authority Act 1994* of New South Wales.

Victorian Corporatisation Act means the *Snowy Hydro Corporatisation Act 1997* of Victoria.

- (2) For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same way as that question is determined under the *Corporations Act 2001*.

6 Act binds the Crown

This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of the Northern Territory.

Part 2—Snowy Hydro Company

7 Holding of shares in Snowy Hydro Company

- (1) Subject to subsection (3), the Commonwealth may acquire, hold, dispose of or deal with shares in the Snowy Hydro Company.
- (2) Shares in the Snowy Hydro Company held by the Commonwealth, being the initial issue to the Commonwealth of shares in the Company:
 - (a) are taken to have been fully paid up; and
 - (b) are taken to have been issued for valuable consideration, being the relevant percentage of the value of the existing Snowy hydro undertaking.
- (3) The Commonwealth must not dispose of or transfer shares in the Snowy Hydro Company without the approval of the Parliament if the disposal or transfer of shares would result in the Commonwealth holding less than the relevant percentage of all issued shares.
- (4) For the purposes of this section:
 - (a) the value of the existing Snowy hydro undertaking is the value determined by agreement between the Commonwealth, New South Wales and Victoria; and
 - (b) the relevant percentage of that value is the percentage of all issued shares in the Snowy Hydro Company that are shares initially issued to the Commonwealth.

8 Snowy Hydro-group company is not the Crown

- (1) A Snowy hydro-group company:
 - (a) is not, and does not represent, the Crown; and
 - (b) is not an instrumentality or agency of the Crown; and
 - (c) is not entitled to any immunity or privilege of the Crown; and

- (d) is not a public authority for any purpose and is taken not to have been constituted or established for a public purpose or for a purpose of the Commonwealth.
- (2) This section has effect subject to any express provision to the contrary made by any law of the Commonwealth.

9 Liabilities of Snowy hydro-group companies not guaranteed by Commonwealth

The liabilities of a Snowy hydro-group company are not guaranteed by the Commonwealth.

Part 3—Transfers of assets and liabilities

Division 1—Transfer of existing Snowy hydro undertaking to Company

10 Transfer to Company of assets and liabilities of Snowy Mountains Hydro-electric Authority

- (1) Subject to this section, the assets and liabilities of the Snowy Mountains Hydro-electric Authority, immediately before the corporatisation date, are transferred to the Snowy Hydro Company.
- (2) The assets and liabilities transferred by this section include the assets and liabilities (if any) of the Snowy Mountains Council. For the purposes of this Act, any such assets and liabilities are taken to be the assets and liabilities of the Snowy Mountains Hydro-electric Authority.
- (3) The liabilities transferred by this section include any liability, immediately before the corporatisation date, arising from the works constructed or purporting to be constructed, or the activities carried out or purporting to be carried out, under the agreements terminated by paragraph 60(1)(a) (being a liability of the Authority, the Commonwealth, New South Wales, Victoria or any authority of the Commonwealth, New South Wales or Victoria). For the purposes of this Act any such liability is taken to be a liability of the Authority.
- (4) The assets and liabilities transferred by this section do not include the assets and liabilities that are transferred to TransGrid by an order under section 12.
- (5) The assets transferred by this section do not include stored water.
- (6) Schedule 1 applies to the transfer of assets and liabilities under this section.

11 Transfer to Company of assets and liabilities of the Commonwealth

- (1) The Minister may, by order in writing and in accordance with an agreement between the Commonwealth, New South Wales and Victoria, direct that such assets or liabilities of the Commonwealth or of an authority of the Commonwealth relating to the Snowy Mountains Hydro-electric Scheme as are specified or referred to in the order be transferred to the Snowy Hydro Company.
- (2) An order under this section may be combined with an order under the New South Wales Corporatisation Act or the Victorian Corporatisation Act that transfers assets or liabilities to the Snowy Hydro Company.
- (3) Schedule 1 applies to an order under this section.

Division 2—Transfer of electricity transmission undertaking to TransGrid

12 Transfer to TransGrid of existing Snowy electricity transmission undertaking

- (1) The Minister may, by order in writing and in accordance with an agreement between the Commonwealth, New South Wales and Victoria, direct that such assets or liabilities of the Snowy Mountains Hydro-electric Authority, of the Commonwealth or of an authority of the Commonwealth relating to the transmission of electricity generated by the Snowy Mountains Hydro-electric Scheme as are specified or referred to in the order be transferred to TransGrid.
- (2) The consideration for the transfer, and the value, of the existing Snowy electricity transmission undertaking (and any other matter concerning the transfer) may be determined by agreement between the Commonwealth, New South Wales and Victoria.
- (3) An order under this section may be combined with an order under the New South Wales Corporatisation Act or the Victorian Corporatisation Act that transfers assets or liabilities to TransGrid.
- (4) Schedule 1 applies to an order under this section.

Division 3—Snowy Mountains Hydro-electric Authority's debts

Subdivision A—Loans by the Commonwealth

13 Scope of Subdivision

- (1) This Subdivision applies to loans to the Snowy Mountains Hydro-electric Authority that were made by the Commonwealth.
- (2) In this Subdivision:

loan includes any amount owing by the Authority to the Commonwealth.

14 Finance Minister may declare that all loans are due and payable

- (1) The Finance Minister may, before the corporatisation date, by writing, declare that the principal amounts of all loans, together with any accrued interest, become due and payable at a time (the *repayment time*) before the corporatisation date that is stated in the declaration.
- (2) The total of the principal amounts and accrued interest is to be set out in the declaration and is to be the amount agreed between the Commonwealth, New South Wales and Victoria.
- (3) The declaration has effect accordingly.
- (4) The Commonwealth must not lend any money to the Authority after the repayment time except in accordance with this Division.

15 Commonwealth must lend to the Authority an amount equal to the amount owing

- (1) If a declaration is made under section 14, the Finance Minister must, at or before the repayment time, lend to the Authority, on behalf of the Commonwealth, an amount equal to the total amount set out in the declaration.

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- (2) The loan is to be subject to such terms and conditions as to payment of interest and repayment of principal as are notified in writing by the Finance Minister to the Authority at or before the repayment time.
- (3) The terms and conditions to be notified are to be those agreed between the Commonwealth, New South Wales and Victoria.
- (4) The amount to be lent under subsection (2) is to be used to pay the amount that became due and payable under section 14.
- (5) To avoid doubt, the payment referred to in subsection (4) operates to extinguish the loans referred to in subsection 14(1).

Subdivision B—Other borrowing transactions

16 Scope of Subdivision

This Subdivision applies to borrowing transactions of the Snowy Mountains Hydro-electric Authority (other than loans referred to in sections 14 and 15).

17 Borrowing transactions

- (1) For the purposes of this Subdivision, a ***borrowing transaction*** of the Authority is:
 - (a) a loan; or
 - (b) any other transaction that gives rise to a borrowing.
- (2) For the purposes of this section, ***borrowing*** includes borrowing by the issue of stock under regulations made under the *Snowy Mountains Hydro-electric Power Act 1949*.

18 Authority's borrowing transactions may become the Commonwealth's borrowing transactions

- (1) The Treasurer may, before the corporatisation date, by notice in the *Gazette*, declare that, at a stated time (the ***transfer time***) before the corporatisation date, the Authority's rights and obligations under specified borrowing transactions:

- (a) cease to be rights and obligations of the Authority; and
- (b) become rights and obligations of the Commonwealth.

Note: A borrowing transaction may be specified by name, by inclusion in a named class of borrowing transactions or in any other way.

- (2) The declaration has effect accordingly.
- (3) The Treasurer may authorise the payment of money by the Commonwealth to discharge obligations to which the declaration applies, whether by terminating those obligations or otherwise.
- (4) Clause 3 of Schedule 1 applies to rights and obligations to which subsection (1) of this section applies as if they were assets and liabilities transferred from the Authority to the Commonwealth under a transfer instrument to which that Schedule applies.
- (5) Clause 4 of Schedule 1 has effect as if references in that clause to the operation of that Schedule included the making of a declaration under subsection (1) of this section.
- (6) The Authority must not enter into any borrowing transactions after the transfer time.

19 Application of the *Loans Securities Act 1919*

Sections 5A, 5B, 5C and 5D (other than paragraphs (1)(c) and (2)(c)) of the *Loans Securities Act 1919* apply in relation to a borrowing that becomes a borrowing of the Commonwealth under section 18 as if that borrowing were a borrowing of money outside Australia:

- (a) that the Treasurer was authorised to make on behalf of the Commonwealth; and
- (b) that the Treasurer made accordingly.

20 Commonwealth takeover of obligations—payments by the Authority to the Commonwealth

- (1) If a declaration is made under subsection 18(1) in respect of rights and obligations under borrowing transactions, the Authority must, in consideration of the transfer of those rights and obligations to

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the Commonwealth, pay to the Commonwealth an amount determined by the Finance Minister.

- (2) The determination is to be in writing and expressed to take effect immediately after the transfer time.
- (3) The amount to be determined is to be the amount agreed between the Commonwealth, New South Wales and Victoria.
- (4) When an amount is determined under subsection (1), the Finance Minister must, before the corporatisation date, lend to the Authority, on behalf of the Commonwealth, an amount equal to the amount determined.
- (5) The loan is to be subject to such terms and conditions as to payment of interest and repayment of principal as are notified in writing by the Finance Minister to the Authority when the loan is made.
- (6) The terms and conditions to be notified are those agreed between the Commonwealth, New South Wales and Victoria.
- (7) The amount to be lent under subsection (4) is to be used to pay the amount required to be paid under subsection (1).
- (8) To avoid doubt, the payment referred to in subsection (7) operates to extinguish the liability to pay the amount referred to in subsection (1).

Subdivision C—Miscellaneous

21 Agreement relating to Commonwealth debt

- (1) The Commonwealth may enter into an agreement with New South Wales and Victoria with respect to liabilities of the Authority to the Commonwealth that are to be transferred to the Snowy Hydro Company on the corporatisation date and with respect to the discharge of those liabilities.
- (2) The agreement may contain any related provisions (including guarantees) that are considered appropriate.

22 Appropriation of Consolidated Revenue Fund

The Consolidated Revenue Fund is appropriated for the purposes of this Division.

Part 4 Transfer and rights of employees

Division 1 Transfer of employees from Snowy Mountains Hydro-electric Authority to Snowy Hydro Company

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Part 4—Transfer and rights of employees

Division 1—Transfer of employees from Snowy Mountains Hydro-electric Authority to Snowy Hydro Company

23 Transfer to Snowy Hydro Company of employees of Snowy Mountains Hydro-electric Authority

- (1) A person who was an employee of the Snowy Mountains Hydro-electric Authority immediately before the corporatisation date is taken:
 - (a) to have ceased to be employed by the Authority immediately before that date; and
 - (b) to have been engaged by the Snowy Hydro Company as an employee of the Company with effect on and from that date; and
 - (c) to have been so engaged on terms and conditions that, with such exceptions (if any) as are provided by the regulations, are the same as those that applied to the person, immediately before that date, as an employee of the Authority; and
 - (d) to have accrued an entitlement to benefits, in connection with that engagement by the Company, that is equivalent to the entitlement that the person had accrued, as an employee of the Authority, immediately before that date.
- (2) The service of a transferred employee as an employee of the Company is taken for all purposes to have been continuous with the service of the employee, immediately before the corporatisation date, as an employee of the Authority.
- (3) A transferred employee is not entitled to receive any payment or other benefit merely because he or she stopped being an employee of the Authority as a result of this section or of any other provision of this Act.

- (4) An auditor of the Snowy Mountains Hydro-electric Authority does not, because of the operation of this Act, become an auditor of the Snowy Hydro Company.
- (5) A reference in paragraph (1)(c) to terms and conditions is a reference to terms and conditions that are set out in:
 - (a) a written contract of employment; or
 - (b) an award (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*); or
 - (c) a certified agreement (as defined by section 4 of the *Workplace Relations Act 1996*, as in force immediately before the reform commencement within the meaning given by that Act); or
 - (d) an Australian workplace agreement (as defined by section 4 of the *Workplace Relations Act 1996*, as in force immediately before the reform commencement within the meaning given by that Act); or
 - (e) an enterprise flexibility agreement (as defined by section 4 of the *Workplace Relations Act 1996* as in force immediately before the commencement of Schedule 9 to the *Workplace Relations and Other Legislation Amendment Act 1996*) that continues to have effect because of Part 2 of that Schedule.
- (6) This section has effect subject to this Part.

24 Variations of terms and conditions of employment

- (1) Section 23 does not prevent the terms and conditions of a transferred employee's employment on or after the corporatisation date from being varied:
 - (a) in accordance with those terms and conditions; or
 - (b) by or under a law, award, determination or agreement.
- (2) In this section:
vary, in relation to terms and conditions, includes:
 - (a) omitting any of those terms and conditions; or
 - (b) adding to those terms and conditions; or

Part 4 Transfer and rights of employees

Division 1 Transfer of employees from Snowy Mountains Hydro-electric Authority to Snowy Hydro Company

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- (c) substituting new terms and conditions for any of those terms and conditions.

Division 2—Transitional and saving provisions in relation to long service leave

25 General interpretation

Unless the contrary intention appears, expressions used in this Division that are also used in the Long Service Leave Act have the same meanings as in that Act.

26 Specific definitions

In this Division:

combined service period, in relation to an employee, means the total of:

- (a) the period that was, immediately before the corporatisation date, the employee's period of service for the purposes of the Long Service Leave Act; and
- (b) the period starting on the corporatisation date during which the employee continues to be an employee of the Snowy Hydro Company.

employee includes a person employed in a full-time or a part-time capacity.

future long service leave rights, in relation to an employee, means any long service leave rights an employee acquires under an award, determination, industrial agreement or law (other than this Act) on or after the corporatisation date in relation to service after that date.

law means:

- (a) a law of the Commonwealth, of a State or of a Territory; or
- (b) regulations or any other instrument (other than an award, determination or industrial agreement) made under such a law.

27 Long service leave for employees with less than 10 years service

- (1) This section applies in relation to a person who was an employee of the Snowy Mountains Hydro-electric Authority immediately before the corporatisation date if, at that time, the employee's period of service for the purposes of the Long Service Leave Act was less than 10 years.
- (2) This section does not apply in relation to an employee who dies while in the employment of a Snowy hydro-group company. Section 29 covers such employees.
- (3) If the employee continues to be employed by a Snowy hydro-group company on or after the corporatisation date until his or her combined service period is at least 10 years, the hydro-group company may grant the employee long service leave on full salary for a period up to the employee's long service leave credit under subsection 30(1).
- (4) If:
 - (a) the employee stops being an employee of a Snowy hydro-group company, on or after reaching the minimum retirement age, or because of retrenchment; and
 - (b) the employee's combined service period at the time when he or she stops being an employee of a hydro-group company is at least one year;the hydro-group company may grant the employee long service leave on full salary for a period of up to the employee's long service leave credit under subsection 30(1).
- (5) If a period of long service leave may be granted to an employee under subsection (3) or (4), the hydro-group company may, if the employee asks in writing, grant the employee long service leave on half salary for a period that is not more than twice the first-mentioned period.
- (6) Long service leave granted in the circumstances set out in subsection (4) is to be taken so as to end immediately before the employee stops being an employee.

- (7) For the purposes of this section, the rate of salary to be used in working out the full salary of an employee is the rate that would be applicable to the employee under section 20 of the Long Service Leave Act if:
- (a) that section applied to the employee; and
 - (b) for the expression “section 16 or 17” in that section there were substituted the expression “section 27 of the *Snowy Hydro Corporatisation Act 1997*”.

28 Payments in lieu of long service leave for employees with less than 10 years service

- (1) This section applies in relation to a person who was an employee of the Snowy Mountains Hydro-electric Authority immediately before the corporatisation date if, at that time, the employee’s period of service for the purposes of the Long Service Leave Act was less than 10 years.
- (2) This section does not apply in relation to an employee who dies while in the employment of a Snowy hydro-group company. Section 29 covers such employees.
- (3) Subject to subsection (6), if the employee stops being an employee of a Snowy hydro-group company on or after the day on which his or her combined service period reaches 10 years, the hydro-group company must pay him or her an amount equal to full salary in respect of his or her long service leave credit under subsection 30(2).
- (4) Subject to subsection (6), if:
- (a) the employee stops being an employee of a Snowy hydro-group company, on or after reaching the minimum retiring age, or because of retrenchment; and
 - (b) at that time the employee’s combined service period is at least one year;
- the hydro-group company must pay him or her an amount equal to full salary in respect of his or her long service leave credit under subsection 30(2).
- (5) Subject to subsection (6), if:

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- (a) the employee stops being an employee of a Snowy hydro-group company; and
 - (b) the hydro-group company is satisfied that the employee left the hydro-group company because of ill-health that justified his or her so leaving; and
 - (c) when the employee left, his or her combined service period was at least one year;the hydro-group company must pay him or her an amount equal to full salary in respect of his or her long service leave credit under subsection 30(2).
- (6) An employee may, by written notice given to a Snowy hydro-group company before the employee stops being an employee of the hydro-group company:
 - (a) request the hydro-group company not to make a payment to the employee under this section; or
 - (b) request the hydro-group company to make a payment under subsection (3), (4) or (5) of a stated amount that is less than the amount that would otherwise be payable under that subsection.
- (7) The hydro-group company must comply with a request made under subsection (6).
- (8) For the purposes of this section, the rate of salary to be used in working out the full salary of an employee is the rate that would be applicable to the employee under section 21 of the Long Service Leave Act if:
 - (a) that section applied to the employee; and
 - (b) for the expression “sections 16 and 17” in that section there were substituted the expression “section 28 of the *Snowy Hydro Corporatisation Act 1997*”.

29 Payments on the death of an employee

- (1) This section applies in relation to a person who was an employee of the Snowy Mountains Hydro-electric Authority immediately before the corporatisation date if, at that time, the employee’s

period of service for the purposes of the Long Service Leave Act was less than 10 years.

- (2) If the employee dies on or after the corporatisation date and, immediately before his or her death:
 - (a) the employee was an employee of a Snowy hydro-group company; and
 - (b) the employee's combined service period was at least one year; and
 - (c) the employee had one or more dependants;the hydro-group company must make a payment to a dependant or to 2 or more dependants of the employee.
- (3) The total amount of the payment or payments is the amount that would have been payable to the employee under section 28 if, on the day of his or her death, the employee had stopped being an employee of the hydro-group company on or after reaching the minimum retiring age.
- (4) If subsection (2) applies, section 23 of the Long Service Leave Act has effect as if:
 - (a) that section applied to an employee of a Snowy hydro-group company; and
 - (b) a reference in that section to the approving authority were a reference to the hydro-group company; and
 - (c) for the expression "this Act" in that section there were substituted the expression "section 29 of the *Snowy Hydro Corporatisation Act 1997*"; and
 - (d) for the expression "subsection 16(7) or 17(5)" in that section there were substituted the expression "section 29 of the *Snowy Hydro Corporatisation Act 1997*".

30 Employee's long service leave credit for the purposes of sections 27 and 28

- (1) For the purposes of section 27, an employee's long service leave credit is equal to the long service leave credit that the employee would have under the Long Service Leave Act for the period:

Section 31

- (a) starting when the employee started his or her period of service; and
 - (b) ending immediately before the corporatisation date; if the employee had been retrenched on the corporatisation date.
- (2) For the purposes of section 28, an employee's long service leave credit is the employee's long service leave credit worked out under subsection (1) of this section reduced by any long service leave credit used under section 27.

31 Division not to affect an employee's future long service leave rights

To avoid doubt, this Division does not affect an employee's future long service leave rights.

32 Saving—Long Service Leave Act

- (1) This section applies to a person who, immediately before the corporatisation date, was an employee of the Snowy Mountains Hydro-electric Authority whose period of service under the Long Service Leave Act was at least 10 years.
- (2) Even though the employee ceases to be employed in Government Service for the purposes of the Long Service Leave Act, the employee's accrued rights under that Act continue if the employee becomes an employee of the Snowy Hydro Company on the corporatisation date. However, the employee is not entitled to receive any payment because he or she ceases to be in Government Service.
- (3) The Long Service Leave Act has effect on and after the corporatisation date in relation to the employee as if the Snowy Hydro Company were an approving authority for the purposes of that Act.

Division 3—Transitional and saving provisions relating to the Safety, Rehabilitation and Compensation Act 1988

33 Interpretation

Unless the contrary intention appears, expressions used in this Division that are also used in the *Safety, Rehabilitation and Compensation Act 1988* have the same meanings as in that Act.

34 Transitional provisions relating to the *Safety, Rehabilitation and Compensation Act 1988* in respect of certain employees of a Snowy hydro-group company

- (1) This section applies to an employee of a Snowy hydro-group company who was an employee of the Snowy Mountains Hydro-electric Authority immediately before the corporatisation date.
- (2) The *Safety, Rehabilitation and Compensation Act 1988* continues to apply, on and after the corporatisation date, in relation to:
 - (a) injuries suffered by the employee before the corporatisation date; and
 - (b) loss of, or damage to, property incurred by the employee before the corporatisation date.

35 Snowy Hydro Company liable to meet certain *Safety, Rehabilitation and Compensation Act 1988* liabilities and to be taken to be the employer in certain circumstances under the *Safety, Rehabilitation and Compensation Act 1988*

- (1) On and after the corporatisation date, the Snowy Hydro Company:
 - (a) is liable to pay the liabilities of the Snowy Mountains Hydro-electric Authority that existed immediately before that date under section 128A of the *Safety, Rehabilitation and Compensation Act 1988* as if it were a prescribed

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Division 3 Transitional and saving provisions relating to the Safety, Rehabilitation and Compensation Act 1988

Section 36

Commonwealth authority for the purposes of that section;
and

- (b) is taken to have been the employer of the employees of the Authority before the corporatisation date for the purposes of the *Safety, Rehabilitation and Compensation Act 1988*.

- (2) Paragraph 1(b) has effect subject to section 36.

36 Sections 40 and 71 of the *Safety, Rehabilitation and Compensation Act 1988*

- (1) This section applies to an employee of a Snowy hydro-group company who was an employee of the Snowy Mountains Hydro-electric Authority immediately before the corporatisation date.
- (2) On and after the corporatisation date:
 - (a) the Snowy hydro-group company is taken to be the relevant employer of the employee for the purposes of section 40 of the *Safety, Rehabilitation and Compensation Act 1988*; and
 - (b) the Snowy hydro-group company is taken to be a Commonwealth authority for the purposes of section 71 of the *Safety, Rehabilitation and Compensation Act 1988*.

Division 4—Transitional and saving provisions in relation to maternity leave

37 Interpretation

Unless the contrary intention appears, expressions used in this Division that are also used in the Maternity Leave Act have the same meanings as in that Act.

38 Transitional maternity leave provisions for maternity leave beginning on or after corporatisation date

- (1) This section applies if:
 - (a) a woman who was an employee of the Snowy Mountains Hydro-electric Authority immediately before the corporatisation date becomes an employee of the Snowy Hydro Company under section 23; and
 - (b) within 12 months after the corporatisation date, the woman would have been entitled to begin leave granted under the Maternity Leave Act if the Authority had continued to exist and the woman had continued to be an employee of the Authority.
- (2) On and after the corporatisation date, the Maternity Leave Act continues to apply to the woman in relation to the confinement in respect of which she would have been entitled to leave as if each Snowy hydro-group company were a prescribed Authority for the purposes of that Act.

39 Transitional maternity leave provisions relating to employees of the Snowy Mountains Hydro-electric Authority who were on maternity leave immediately before corporatisation date

- (1) This section applies if:
 - (a) immediately before the corporatisation date, a woman was an employee of the Snowy Mountains Hydro-electric Authority and was on leave granted under the Maternity Leave Act; and

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Section 39

- (b) the woman becomes an employee of the Snowy Hydro Company under section 23; and
 - (c) the woman would have been entitled to remain on that leave, after the corporatisation date, if the Authority had continued to exist and the woman had continued to be employed by the Authority.
- (2) On and after the corporatisation date, the Maternity Leave Act continues to apply to the woman in relation to the confinement in respect of which the leave was granted as if each Snowy hydro-group company were a prescribed Authority for the purposes of that Act.

Division 5—Other transitional and saving provisions

40 Saving—deferred benefits under the DFRDB Act

- (1) This section applies to an employee of a Snowy hydro-group company if, immediately before the corporatisation date, the employee was an employee of the Snowy Mountains Hydro-electric Authority in respect of whom deferred benefits were applicable under section 78 of the DFRDB Act.
- (2) For the purposes of Division 3 of Part IX of the DFRDB Act, the employee is taken to continue in public employment on and after the corporatisation date while the employee continues to be employed by a hydro-group company.
- (3) This section is subject to Division 3 of Part IX of the DFRDB Act.
- (4) Unless the contrary intention appears, expressions used in this section that are also used in the DFRDB Act have the same meanings as in that Act.

41 Saving—period of eligible employment for the purposes of Division 3 of Part IX of the DFRDB Act

If:

- (a) a person who is an employee of a Snowy hydro-group company was, immediately before the corporatisation date, an employee of the Snowy Mountains Hydro-electric Authority; and
- (b) a period of employment of the person by the Authority was a period of eligible employment for the purposes of Division 3 of Part IX of the DFRDB Act;

the period of employment continues to be a period of eligible employment for the purposes of that Division.

42 Transitional provision relating to the *Crimes (Superannuation Benefits) Act 1989*

Continuing application of Crimes (Superannuation Benefits) Act 1989

- (1) Subject to this section, if:
- (a) a person who was an employee of the Snowy Mountains Hydro-electric Authority before the corporatisation date committed a corruption offence while such an employee; and
 - (b) the person becomes an employee of the Snowy Hydro Company on that date under section 23;
- then, on and after that date, the *Crimes (Superannuation Benefits) Act 1989* continues to apply in relation to the person in respect of the offence as if a Snowy hydro-group company were an authority of the Commonwealth.

Limitation on superannuation orders

- (2) A superannuation order may not be made under the *Crimes (Superannuation Benefits) Act 1989* in relation to employer contributions or benefits paid or payable to a superannuation scheme by a Snowy hydro-group company on or after the corporatisation date.

Superannuation schemes

- (3) A superannuation scheme in relation to which employer contributions or benefits are paid or payable by a Snowy hydro-group company is not a superannuation scheme for the purposes of the *Crimes (Superannuation Benefits) Act 1989* in respect of a corruption offence committed by a person after the corporatisation date.

Paragraph 19(3)(d) orders

- (4) Despite paragraph 19(3)(d) of the *Crimes (Superannuation Benefits) Act 1989*, for the purposes of the application of that Act to the Snowy Mountains Hydro-electric Authority, an order made under that paragraph on or after the corporatisation date may only

specify that an amount paid to the Commonwealth before that date by or on behalf of the Authority belongs to the Commonwealth.

Paragraph 19(4)(b) orders

(5) If:

- (a) a person who was an employee of the Snowy Mountains Hydro-electric Authority before the corporatisation date committed a corruption offence while such an employee; and
- (b) the person was or is paid benefits before, on or after that date out of the Consolidated Revenue Fund;

then, despite paragraph 19(4)(b) of the *Crimes (Superannuation Benefits) Act 1989*, for the purposes of the application of that Act to the corruption offence, an order made under that paragraph on or after that date may only specify that an amount equal to the total benefits paid out of the Consolidated Revenue Fund be paid to the Commonwealth.

Interpretation

- (6) Unless the contrary intention appears, expressions used in this section that are also used in the *Crimes (Superannuation Benefits) Act 1989* have the same meanings as in that Act.

43 Saving—*Director of Public Prosecutions Act 1993*

Even though the *Director of Public Prosecutions Act 1993* ceases to apply to acts, omissions or proceedings in connection with the Snowy Mountains Hydro-electric Authority because the Authority has ceased to exist, that Act continues on and after the corporatisation date to apply to:

- (a) acts or omissions that occurred before that date; and
- (b) the taking of civil remedies connected with or arising out of a prosecution that relates to such acts or omissions.

44 Saving—*Judiciary Act 1903*

- (1) Section 55E of the *Judiciary Act 1903* continues to apply in relation to:

Section 46

- (a) any proceedings to which the Snowy Hydro Company is a party that were started before the corporatisation date; and
 - (b) any matter that an authorised person, by writing, certifies to be a matter in relation to which the Snowy Mountains Hydro-electric Authority gave written instructions before the corporatisation date to the Australian Government Solicitor; and
 - (c) any matter that an authorised person, by writing, certifies to be a matter involving a claim against the Company in respect of which the Commonwealth agreed to indemnify the Authority or has agreed to indemnify the Company; as if the Company were a body established by an Act.
- (2) A document purporting to be a certificate under subsection (1) is, unless the contrary is established, taken to be such a certificate.
- (3) In this section:

authorised person means:

- (a) the Secretary of the Attorney-General's Department; or
- (b) a person holding or performing the duties of a Senior Executive Service office, within the meaning of the *Public Service Act 1922*, in that Department.

46 Cessation of mobility rights

- (1) If Division 2 or 3 of Part IV of the *Public Service Act 1922* applied to an employee of the Snowy Mountains Hydro-electric Authority immediately before the corporatisation date, that Division ceases to apply to the employee on that date.
- (2) If Division 4 of Part IV of the *Public Service Act 1922* applied to an employee of the Authority immediately before the corporatisation date:
 - (a) the *Officers' Rights Declaration Act 1928*; and
 - (b) Division 4 of Part IV of the *Public Service Act 1922*;cease to apply to the employee on that date.

Part 5—Miscellaneous

47 Sharing of land tax with New South Wales

- (1) The Commonwealth may enter into an agreement with New South Wales with respect to the payment to the Commonwealth of a requisite proportion of land tax paid to New South Wales by the Snowy Hydro Company.
- (2) The requisite proportion is the proportion of shares in the Company held by the Commonwealth during the relevant period for which the land tax was paid.

48 Minister may execute agreements on behalf of Commonwealth

The Minister may execute, on behalf of the Commonwealth, any agreement that the Commonwealth is authorised to enter into by this Act or any other agreement that is necessary or convenient to give effect to the object of this Act.

49 Exemption from taxes (other than GST)

- (1) No tax is payable under a law of the Commonwealth, New South Wales or Victoria in respect of:
 - (a) an exempt matter; or
 - (b) anything done (including, for example, a transaction entered into or an instrument or oral agreement made, executed, lodged or given) because of, or for a purpose connected with or arising out of, an exempt matter.

Note: Section 177-5 of the *A New Tax System (Goods and Services Tax) Act 1999* cancels the effect of this section in respect of the GST. Section 49A of this Act deals with supplies that are GST-free.

- (2) The Finance Minister or an authorised person may, in writing, certify whether:
 - (a) a particular matter or thing is an exempt matter; or
 - (b) a particular thing was done (including, for example, a transaction entered into or an instrument or oral agreement

Section 49A

made, executed, lodged or given) because of, or for a purpose connected with or arising out of, a particular exempt matter.

- (3) For all purposes and in all proceedings, a certificate under subsection (2) is conclusive evidence of the matter certified, except to the extent (if any) to which the contrary is proved.
- (4) Unless the contrary is proved, a document purporting to be a certificate under subsection (2) is to be taken to be such a certificate and to have been duly signed.

49A GST-free supplies

- (1) To the extent that any of the following constitutes a taxable supply, or a supply that would be input taxed, under the *A New Tax System (Goods and Services Tax) Act 1999*, it is instead GST-free:
 - (a) the initial issue of shares in the Snowy Hydro Company to the Commonwealth, New South Wales and Victoria;
 - (b) supplies made on or before the corporatisation date as a result of, or as a result of action taken under, any of the following provisions:
 - (i) Division 1 or Division 3 of Part 3, Part 4, section 56 or section 60 of this Act;
 - (ii) section 11, 12, 13, 15, 16 or 53 of the New South Wales Corporatisation Act;
 - (iii) section 11, 12, 13, 15, 16 or 28 of the Victorian Corporatisation Act.
- (2) Nothing in subsection (1) results in a progressive or periodic component of a supply being GST-free.

Note: Progressive or periodic components of supplies will continue to be dealt with under the relevant provisions (including section 156-5) of the *A New Tax System (Goods and Services Tax) Act 1999* as if subsection (1) did not apply.

50 Exemption from Corporations Act

Section 205 and Part 3.2A of the *Corporations Act 2001* do not apply in relation to:

- (a) any debt to the Commonwealth, or other liability, acquired by the Snowy Hydro Company (or the giving of any related security) in accordance with this Act, the New South Wales Corporatisation Act or the Victorian Corporatisation Act or any agreement under any such Act; or
- (b) the acquisition of initial shares in the Company by the Commonwealth, New South Wales or Victoria.

51 Ministerial determinations for purposes of application of Income Tax Assessment Acts in respect of assets transferred to Snowy Hydro Company

- (1) This section applies to an asset that is transferred to the Snowy Hydro Company by:
 - (a) a transfer instrument or transfer instruments referred to in paragraph 2(a) of Schedule 1; or
 - (b) an order or orders referred to in paragraph 2(b), (c) or (d) of that Schedule.
- (2) The Finance Minister may make a written determination that the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997* have effect, in relation to the Company, as if:
 - (a) the Company acquired, and became the owner of, a specified asset on a date stated in the determination; and
 - (b) the Company had given consideration in respect of the acquisition of the asset by it; and
 - (c) the consideration so given:
 - (i) was the amount stated in the determination; and
 - (ii) represented the cost to the Company of the asset.
- (3) The amount to be stated in a determination under subparagraph (2)(c)(i) in respect of a particular asset is the amount determined in relation to that asset in a relevant agreement entered into as mentioned in clause 6 of Schedule 1.
- (4) A determination under subsection (2) has effect accordingly.

Section 52

52 Modification by regulations of Income Tax Assessment Acts as applying to Snowy Hydro Company

- (1) The regulations may provide that the application of the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997* to the Snowy Hydro Company is subject to such modifications as are set out in the regulations.
- (2) This section has effect subject to any determinations in force under section 51.

53 Registration etc. of changing title to assets

- (1) If:
 - (a) an asset vests in the Snowy Hydro Company because of section 10 or an order under section 11 or vests in TransGrid because of an order under section 12; and
 - (b) a person or authority has power, under a law of the Commonwealth, of a State or of a Territory, to register, record or otherwise give effect to:
 - (i) transactions affecting that kind of asset; or
 - (ii) instruments relating to such transactions;the person or authority may do whatever is necessary or desirable to give effect to, or reflect, the vesting (for example, making entries in a register).
- (2) Without limiting the generality of subsection (1), if:
 - (a) land that is situated in a State or Territory, or an interest in such land, vests in the Snowy Hydro Company under section 10 or an order under section 11 or vests in TransGrid under an order under section 12; and
 - (b) there is lodged with the Registrar of Titles or other proper officer of the State or Territory in which the land is situated a certificate that:
 - (i) is signed by the Minister or an authorised person; and
 - (ii) identifies the land or interest, whether by reference to a map or otherwise; and

- (iii) states that the land or interest is vested in the Company under section 10 or 11 or is vested in TransGrid under section 12, as the case may be;
- the officer with whom the certificate is lodged may:
- (c) register the matter in the same way as dealings in land or interests in land of that kind are registered; and
 - (d) deal with, and give effect to, the certificate.

54 Compensation—constitutional safety-net

- (1) If:
 - (a) apart from this section, the operation of this Act would result in the acquisition of property from a person otherwise than on just terms; and
 - (b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution;the Commonwealth is liable to pay compensation of a reasonable amount to the person in respect of the acquisition.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the Court determines.
- (3) In this section:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

person does not include the Snowy Mountains Hydro-electric Authority or the Snowy Mountains Council.

55 Snowy Hydro Company's financial statements and reports to be laid before Parliament

- (1) This section applies when, under the *Corporations Act 2001*, the Snowy Hydro Company sends to:
 - (a) the Commonwealth as the holder of shares in the Company;
or
 - (b) a person who holds shares in the Company as nominee for the Commonwealth;copies of the documents required by that Act to be laid before a particular annual general meeting of the Company.
- (2) The Minister must, as soon as practicable, cause to be laid before each House of the Parliament copies of the documents referred to in subsection (1) (whether made from the copies first referred to in that subsection or otherwise).

56 Commonwealth records, etc.

- (1) In this section:

personal information has the same meaning as in the *Privacy Act 1988*.

pre-corporatisation day means the day immediately before the corporatisation date.
- (2) Any asset of the Snowy Mountains Hydro-electric Authority, in existence at the beginning of the pre-corporatisation day, or coming into existence during that day, being an asset that is a Commonwealth record, becomes the property of the Commonwealth at the beginning of that day or immediately after coming into existence, as the case may be.
- (3) Any asset of the Snowy Mountains Hydro-electric Authority, being a copyright in a literary, dramatic, musical or artistic work or other subject-matter, that was owned by the Authority at the beginning of the pre-corporatisation day, or comes to be owned by the Authority during that day, becomes the property of the Commonwealth at the beginning of that day or immediately after coming to be owned by the Authority, as the case may be.

- (4) Clause 3 of Schedule 1 applies to an asset to which subsection (2) or (3) applies as if it were transferred from the Authority to the Commonwealth under a transfer instrument to which that Schedule applies.
- (5) The disclosure to the Snowy Hydro Company of personal information about transferred employees contained in Commonwealth records referred to in subsection (2) is authorised.
- (6) To avoid doubt, but without limiting by implication the operation of section 8, a Snowy hydro-group company is taken, for the purposes of the *Archives Act 1983*, never to have been established for a public purpose.

57 Authorised persons

- (1) The Finance Minister may, by writing, appoint a person to be an authorised person for the purposes of subsection 49(2).
- (2) The Minister may, by writing, appoint a person to be an authorised person for the purposes of subsection 53(2).

58 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and, in particular, prescribing penalties, not exceeding a fine of 10 penalty units, for offences against the regulations.

59 Repeal

The *Snowy Mountains Hydro-electric Power Act 1949* is repealed.

60 Termination and amendment of certain existing agreements relating to Snowy Mountains Scheme

- (1) The following agreements are terminated on the corporatisation date:

Section 61

- (a) the agreements copies of which are set out in Schedules 1 and 2 to the *Snowy Mountains Hydro-electric Power Act 1949*;
 - (b) the agreement a copy of which is set out in the Schedule to the *Blowering Water Storage Works Agreements Act 1963*.
- (2) The agreement a copy of which is set out in the First Schedule to the *Seat of Government Acceptance Act 1909* is amended on the corporatisation date by omitting clause 10.
- (3) The termination of the agreements referred to in subsection (1) extinguishes the rights and obligations of the parties under the agreements.
- (4) The omission of clause 10 of the agreement referred to in subsection (2) extinguishes the rights and obligations of the parties under the clause.
- (5) An exemption (if any) arising under the agreements referred to in subsection (1) from any written or unwritten laws of the Commonwealth, New South Wales or Victoria is terminated on the corporatisation date and is not transferred by or under this Act, the New South Wales Corporatisation Act or the Victorian Corporatisation Act.
- (6) A right (if any) arising under an agreement referred to in subsection (1) to collect, divert, store or use water or to generate or supply electricity, or right arising under clause 10 of the agreement referred to in subsection (2), is terminated on the corporatisation date and is not transferred by or under this Act, the New South Wales Corporatisation Act or the Victorian Corporatisation Act.
- (7) Subsections (5) and (6) are enacted to avoid doubt.

61 Authority and Council abolished

On the corporatisation date:

- (a) the Snowy Mountains Hydro-electric Authority is abolished;
and
- (b) the Snowy Mountains Council is abolished;

to the extent that they were, immediately before that date, constituted or recognised as legal entities by any Act.

62 Validation of treatment of certain expenditure by the Authority

If the Authority has at any time treated expenditure incurred by it under the agreement a copy of which is set out in Schedule 2 to the *Snowy Mountains Hydro-electric Power Act 1949* as being expenditure of a capital nature, or as not being expenditure of a capital nature, the action of the Authority in so treating the expenditure is taken, for all purposes, to have been correct.

63 Savings, transitional and other provisions

- (1) Part 1 of Schedule 2 has effect.
- (2) Part 2 of Schedule 2 has effect.

Schedule 1—Provisions relating to transfer of undertakings

1 Definitions

In this Schedule:

corresponding law means the New South Wales Corporatisation Act or the Victorian Corporatisation Act.

transfer instrument: see clause 2.

transferee means the person or body to whom any assets or liabilities are transferred by a transfer instrument to which this Schedule applies.

transferor means the person or body from whom any assets or liabilities are transferred by a transfer instrument to which this Schedule applies.

2 Application

This Schedule applies to the following *transfer instruments*:

- (a) section 10 of this Act and a provision of the New South Wales Corporatisation Act or the Victorian Corporatisation Act transferring assets and liabilities of the Authority to the Snowy Hydro Company;
- (b) an order under section 11 of this Act transferring assets or liabilities of the Commonwealth to the Snowy Hydro Company;
- (c) an order under a provision of the New South Wales Corporatisation Act transferring assets or liabilities of New South Wales to the Snowy Hydro Company;
- (d) an order under a provision of the Victorian Corporatisation Act transferring assets or liabilities of Victoria to the Snowy Hydro Company;
- (e) an order under section 12 of this Act transferring assets or liabilities of the Authority, the Commonwealth or an authority of the Commonwealth to TransGrid;

- (f) an order under a provision of the New South Wales Corporatisation Act transferring assets or liabilities of the Authority, New South Wales or an authority of New South Wales to TransGrid;
- (g) an order under a provision of the Victorian Corporatisation Act transferring assets or liabilities of the Authority, Victoria or an authority of Victoria to TransGrid.

3 Vesting of undertaking in transferee

When any assets or liabilities are transferred by a transfer instrument to which this Schedule applies, the following provisions have effect (subject to the transfer instrument):

- (a) those assets of the transferor vest in the transferee by this Schedule and without the need for any conveyance, transfer, assignment or assurance;
- (b) those liabilities of the transferor become by this Schedule the liabilities of the transferee;
- (c) all proceedings relating to those assets or liabilities begun before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee;
- (d) any act, matter or thing done or omitted to be done in relation to those assets or liabilities before the transfer by, to or in respect of the transferor is (to the extent that that act, matter or thing has any effect) taken to have been done or omitted by, to or in respect of the transferee;
- (e) a reference in any Act, in any instrument made under any Act or in any document of any kind to the transferor or a predecessor of the transferor is (to the extent that it relates to those assets or liabilities but subject to the regulations or other provisions under Schedule 2) to be read as, or as including, a reference to the transferee.

4 Operation of Schedule

- (1) The operation of this Schedule is not to be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong; or
-

Clause 5

- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets or liabilities; or
 - (c) as giving rise to any remedy by a party to a legal instrument, or as causing or permitting the termination of any legal instrument, because of a change in the beneficial or legal ownership of any asset or liability.
- (2) The operation of this Schedule is not to be regarded as an event of default under any contract or other legal instrument.
 - (3) No attornment to the transferee by a lessee from the transferor is required.
 - (4) The operation of this Schedule includes the enactment or making of a transfer instrument to which this Schedule applies.

Note: The operation of this Schedule also includes the making of a declaration under subsection 18(1) (see subsection 18(5)).

- (5) In this clause:

legal instrument means an instrument (other than this Act or a corresponding law) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court.

5 Date of vesting

A transfer instrument to which this Schedule applies takes effect on the date it is enacted or made, or such other date as is specified in the instrument.

6 Value of particular assets transferred

The respective values of particular assets transferred by a transfer instrument to which this Schedule applies may be determined by agreement between the Commonwealth, New South Wales and Victoria.

7 Transfer of interests in land

- (1) A transfer instrument to which this Schedule applies may transfer an interest in respect of land vested in the transferor without transferring the whole of the interests of the transferor in that land.
- (2) If the interest transferred is not a separate interest, the transfer instrument operates to create the interest transferred in such terms as are specified in the instrument.
- (3) This clause does not limit any other provision of this Schedule.

8 Confirmation of vesting in Snowy Hydro Company

- (1) The Minister may, by order in writing, confirm the transfer to the Snowy Hydro Company of particular assets or liabilities by the operation of section 10.
- (2) Such an order is evidence of that transfer.
- (3) An order under this clause may be combined with an order under the New South Wales Corporatisation Act or the Victorian Corporatisation Act that confirms the transfer of assets or liabilities to the Snowy Hydro Company by that Act.

9 Successor of Authority

The Snowy Hydro Company is taken for all purposes, including the rules of private international law, to be the successor of the Authority (except in respect of assets and liabilities transferred under this Act or a corresponding law to any other body or person).

Schedule 2—Savings, transitional and other provisions

Part 1—Preliminary

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the day on which this Act receives the Royal Assent or a later day.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its notification in the *Gazette*, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the Commonwealth or an authority of the Commonwealth), the rights of that person existing before the date of notification; or
 - (b) to impose liabilities on any person (other than the Commonwealth or an authority of the Commonwealth) in respect of anything done or omitted to be done before the date of notification.

Part 2—Provisions consequent on enactment of this Act

2 Judicial notice

Despite the repeal of the *Snowy Mountains Hydro-electric Power Act 1949*, all courts, judges and people acting judicially must take judicial notice of the imprint of the official seal of the Snowy Mountains Hydro-electric Authority appearing on a document and must presume that the seal was duly affixed.

3 Final report by Authority

- (1) Despite sections 59 and 61, the *Snowy Mountains Hydro-electric Power Act 1949* continues in force, and the Authority continues in existence, solely for the purpose of enabling the Authority to comply with any of its outstanding obligations under subsection 63H(1) of the *Audit Act 1901* in respect of any period before the corporatisation date.
- (2) The Auditor-General has such powers as are necessary for the purpose of performing his or her duties under subsection 63H(2) of the *Audit Act 1901* in relation to financial statements prepared in compliance with the Authority's obligations referred to in subclause (1) of this clause.
- (3) The Snowy Hydro Company must provide the Authority with any assistance that the Authority reasonably requires for the performance of its duties under subclause (1).

4 Final report by Council

- (1) Despite sections 60 and 61, the Snowy Mountains Council continues in existence solely for the purpose of performing any necessary duties under clause 21 of the Agreement set out in Schedule 1 to the *Snowy Mountains Hydro-electric Power Act 1949*.
- (2) The Snowy Hydro Company is to provide any assistance that the Council reasonably requires for the performance of those duties.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

- Endnote 1—About the endnotes
- Endnote 2—Abbreviation key
- Endnote 3—Legislation history
- Endnote 4—Amendment history
- Endnote 5—Uncommenced amendments
- Endnote 6—Modifications
- Endnote 7—Misdescribed amendments
- Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

Abbreviation key—Endnote 2

The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

Modifications—Endnote 6

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

Misdescribed amendments—Endnote 7

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

Miscellaneous—Endnote 8

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub-Ch = Sub-Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)	

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Snowy Hydro Corporatisation Act 1997	176, 1997	21 Nov 1997	ss. 1–9, 11–22, 25, 47–50, 56–58, 63(1) and Schedule 2 (Part 1): Royal Assent ss. 53–55 and Schedule 1: 3 Apr 2001 (<i>see Gazette</i> 2001, No. GN16) Remainder: 28 June 2002 (<i>see Gazette</i> 2002, No. S216)	
Corporations (Repeals, Consequential and Transitionals) Act 2001	55, 2001	28 June 2001	ss. 4–14 and Schedule 3 (items 474–478): 15 July 2001 (<i>see Gazette</i> 2001, No. S285) (a)	ss. 4–14
Snowy Hydro Corporatisation Amendment Act 2003	8, 2003	19 Mar 2003	26 July 2001	—
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	s. 4 and Schedule 1 (items 364, 496): Royal Assent	s. 4 and Sch. 1 (item 496)
Fair Work (State Referral and Consequential and Other Amendments) Act 2009	54, 2009	25 June 2009	Schedule 17 (item 7): (b)	—
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Schedule 5 (items 195–197) and Schedule 7 (item 121): 19 Apr 2011	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Schedule 2 (item 1050) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Stocktake Act (No. 1) 2011	100, 2011	15 Sept 2011	Schedule 1 (item 8): 16 Sept 2011	—
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 12 (item 131): 1 July 2014 (<i>see</i> 2(1) item 6)	—

Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
2006 No. 50	17 Mar 2006 (<i>see</i> F2006L00820)	Schedule 23: 27 Mar 2006 (<i>see</i> r. 2(b))	—

- (a) The *Snowy Hydro Corporatisation Act 1997* was amended by Schedule 3 (items 474–478) only of the *Corporations (Repeals, Consequential and Transitional) Act 2001*, subsection 2(3) of which provides as follows:
- (3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.
- (b) Subsection 2(1) (item 40) of the *Fair Work (State Referral and Consequential and Other Amendments) Act 2009* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
40. Schedule 17	Immediately after the commencement of Part 2-4 of the <i>Fair Work Act 2009</i> .	1 July 2009

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s. 5	am. No. 55, 2001; No. 5, 2011; No 62, 2014
Part 3	
Division 3	
Subdivision A	
Heading to s. 14	am. No. 5, 2011
ss. 14, 15	am. No. 5, 2011
Subdivision B	
s. 20	am. No. 5, 2011
Part 4	
Division 1	
s. 23	am. SLI 2006 No. 50; No. 54, 2009
Division 5	
s. 42	am. No. 8, 2005
s. 44	am. No. 5, 2011
s. 45	rep. No. 100, 2011
Part 5	
Heading to s. 49	am. No. 8, 2003
s. 49	am. No. 5, 2011
Note to s. 49(1)	ad. No. 8, 2003
s. 49A	ad. No. 8, 2003
Heading to s. 50	am. No. 55, 2001
s. 50	am. No. 55, 2001
s. 51	am. No. 5, 2011
s. 52	am. No. 46, 2011
s. 55	am. No. 55, 2001
s. 57	am. No. 5, 2011

Endnotes

Endnote 5—Uncommenced amendments [none]

Endnote 5—Uncommenced amendments [none]

Endnote 6—Modifications [none]

Endnote 7—Misdescribed amendments [none]

Endnote 8—Miscellaneous [none]