

Electricity Industry (Loy Yang B) Bill

EXPLANATORY MEMORANDUM

The Bill provides for amendments to the **Electricity Industry Act 1993**, the **State Electricity Commission Act 1958** and the **Loy Yang B Act 1992**.

PART 1—PRELIMINARY

- Clause 1 sets out the purpose of the Act, which is to facilitate the sale of Loy Yang B power station.
- Clause 2 provides for the commencement of the Act. Part 1 of the Act comes into operation on the day on which the Act receives the Royal Assent. The remaining provisions will come into operation on a day or days to be proclaimed. The Bill is unable to commence on a named day as its commencement relates to the completion of the sale of the Loy Yang B power station.
- Clause 3 states that in this Act the **Electricity Industry Act 1993** is called the Principal Act.

PART 2—AMENDMENT OF PRINCIPAL ACT

This Part makes various amendments to the **Electricity Industry Act 1993** (*EI Act*).

- Clause 4 inserts definitions of "allocation day", "Loy Yang B land" and "LYB Transaction Implementation Agreement" in section 3(1) of the EI Act. This clause also amends the definitions of "transferred property" and "transferee" in section 3(1) of the EI Act. The amendments recognise that, as a result of other amendments contained in the Act, property, rights and liabilities of SEC may be allocated to a person or persons nominated by the Minister.
- Clause 5 repeals sections 11(3), 12A(3), 12A(4)(b), 47A(15), 47A(16), 47A(17) and 47A(18) of the EI Act and amends sections 12A(4) and 47A(3).
- Clause 6 inserts a new section 46(1B) in the EI Act which provides that the Loy Yang B land is rateable land and provides than an agreement with respect to the payment of amounts in lieu of rates which is in force under section 27 of the **Loy Yang B Act 1992** at the time the new section 46(1B) commences will have effect as if that agreement had been entered into under section 46(3)(a) of the EI Act. This clause also amends section 46(4) of the EI Act. That section

at present makes reference to amounts required to be paid under section 27(2) of the **Loy Yang B Act 1992**. As a result of the amendment, reference will be made instead to the methodology by which amounts payable under an agreement in force under that section were determined.

- Clause 7 inserts a new section 62A in the EI Act. The new section 62A requires the SEC to give to the Treasurer and the Minister, within three months after the commencement of this clause, a statement approved by the Minister and signed by the Administrator relating to property, rights and liabilities of SEC as at a date specified by the Minister and allocating that property, those rights and those liabilities to a person or persons nominated by the Minister on a specified day. Under sub section (2), certain specified property, rights and liabilities of SEC must not be allocated. Provision is also made for the allocation statement to be signed by the Treasurer and the Minister and for amendments to the statement.
- Clause 8 makes consequential amendments to section 63 of the EI Act which recognise that, as a result of the new section 62A, further allocations of SEC property, rights and liabilities may be made to a person or persons nominated by the Minister under that section.
- Clause 9 inserts a new section 66A in the EI Act which provides for the vesting of all property, rights and liabilities of SEC that are allocated to a person or persons nominated by the Minister under section 62A on the allocation day.
- Clause 10 makes consequential amendments to sections 67, 68, 69, 70, 71, 72, 73, 74 and 76 of the EI Act, each of which recognises that, as a result of the new section 62A, further allocations of SEC property, rights and liabilities may be made to a person or persons nominated by the Minister under that section.
- Clause 11 amends section 153U of the EI Act to extend its application to property.
- Clause 12 inserts a new section 153UA in the EI Act. The new section 153UA authorises the Treasurer, on behalf of the Government of Victoria, to enter into and give effect to the LYB Transaction Implementation Agreement and all transactions referred to or contemplated in the LYB Transaction Implementation Agreement.
- Clause 13 amends section 153X of the EI Act. That section provides that the **Freedom of Information Act 1992** does not apply to a document to the extent to which the document discloses information about certain specified matters. The

amendment expands the specified matters to include the terms of the LYB Transaction Implementation Agreement and the transactions referred to or contemplated in that Agreement.

- Clause 14 amends section 158C of the EI Act by inserting a new sub-section (2). The new sub-section permits the Governor in Council, by Order published in the Government Gazette, to amend or vary an Order in force under section 158A in accordance with the recommendation in writing of the Treasurer that it is necessary or desirable to make the Order as a consequence of SEC ceasing to purchase electricity under the Power Supply Agreement within the meaning of the State Agreement set out in Schedule 1 to the **Loy Yang B Act 1992**.
- Clause 15 inserts a new section 158A in the EI Act. The new section authorises the Governor in Council, by order published in the Government Gazette, to regulate, in such manner as the Governor in Council sees fit, the price payable for electricity purchased from time to time under the pool rules for the purpose of reducing the price of electricity purchased by SEC to satisfy its obligations under the agreements, contracts and deeds referred to in **Part A** of Schedule 3 of the EI Act and increasing the price of electricity purchased under the pool rules by persons other than the SEC so that the total amount payable is increased by approximately the same amount as the amount of the reduction. Such an order may specify different prices, or different methods of determining prices, to be payable or applicable to different persons purchasing electricity under the pool rules and may provide that the pool rules apply as modified by the Order from the date specified in the Order.
- Clause 16 inserts a new Part 11AB in the EI Act. Proposed new Part 11AB provides for the transfer of certain property and staff of Loy Yang Power Ltd. The property rights and liabilities of LYP which are allocated to a transferee under an allocation statement vest in the transferee on the relevant date. Provision is also made for the transfer of staff and the continuity of employment of transferred staff.

PART 3—AMENDMENT OF OTHER ACTS

- Clause 17 repeals section 21(1) and section 27 of the **Loy Yang B Act 1992**.
- Clause 18 repeals section 108A of the **State Electricity Commission Act 1958**.

