

Western Australia

Electricity Legislation Amendment Act 2004

As at 20 Oct 2004

No. 33 of 2004

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Electricity Legislation Amendment Act 2004

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Western Australia

Electricity Legislation Amendment Act 2004

No. 33 of 2004

An Act to amend the —

- *Electricity Act 1945*;
- *Electricity Corporation Act 1994*;
- *Electricity Industry Act 2004*;
- *Energy Operators (Powers) Act 1979*; and
- *Parliamentary Commissioner Act 1971*.

[Assented to 20 October 2004]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Electricity Legislation Amendment Act 2004*.

2. Commencement

- (1) The provisions of this Act come into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

Part 2 — General Amendments

Division 1 — *Electricity Act 1945* amended

3. The Act amended

The amendments in this Division are to the *Electricity Act 1945**.

[* *Reprint 5 as at 6 June 2003.*]

4. Long title amended

The long title is amended by deleting “to consolidate and amend the law relating to the establishment and control of electricity generating stations and to the transmission, distribution and use of electricity;”.

5. Section 5 amended

- (1) Section 5(1) is amended in the definition of “service apparatus” by inserting after “supply authority” —

“ or network operator ”.

- (2) Section 5(1) is amended in the definition of “electric installation” by deleting “electric” and by relocating the definition in the appropriate alphabetical position.

- (3) Section 5(1) is amended by deleting the definition of “supply authority” and inserting instead —

“supply authority” means an entity that, immediately before the coming into operation of section 5 of the *Electricity Legislation Amendment Act 2004*, was a supply authority as defined in this section, but does not include the Western Power Corporation;

- (4) In section 5(1) the following definitions are inserted in the appropriate alphabetical positions —

“

“distribution licensee” means the holder of —

- (a) a distribution licence under the *Electricity Industry Act 2004*; or
- (b) an integrated regional licence under the *Electricity Industry Act 2004* that authorises the holder to operate a distribution system as defined in section 3 of that Act;

“exempt operator” means a person who —

- (a) operates transmission works or distribution works; and
- (b) would be required under section 7 of the *Electricity Industry Act 2004* to be the holder of a transmission licence, distribution licence or integrated regional licence in respect of the operation of those works but for an order issued by the Governor under section 8(1) of that Act;

“network operator” means a person who —

- (a) operates transmission works and is a transmission licensee;
- (b) operates distribution works and is a distribution licensee; or
- (c) is an exempt operator;

“transmission licensee” means the holder of —

- (a) a transmission licence under the *Electricity Industry Act 2004*; or
- (b) an integrated regional licence under the *Electricity Industry Act 2004* that authorises the holder to operate a transmission system as defined in section 3 of that Act;

”.

- (5) In section 5(1) the definitions of “concessionaire”, “department” or “Government Department” and “linking up scheme” are deleted.

6. Section 6 replaced

Section 6 is repealed and the following section is inserted instead —

“

6. Application of Act to supply authorities

- (1) The Minister may, by instrument published in the *Government Gazette*, declare that on and after a specified day a specified relevant provision does not apply to a specified supply authority, and a declaration so made has effect accordingly.
- (2) A declaration is not to be made in respect of a relevant provision unless the Minister is of the opinion that on and after the specified day the specified supply authority will have powers, rights and obligations under the *Electricity Industry Act 2004* that are substantially equivalent to those conferred or imposed by the relevant provision.
- (3) A declaration is not to be made after the expiration of the period of 2 years beginning on the day of the insertion of subsection (1) into this Act by the *Electricity Legislation Act 2004*.
- (4) In this section —
- “**declaration**” means a declaration made under subsection (1);
- “**relevant provision**” means any of sections 11 to 24, 34 to 41 or 43 to 51, or any portion of any of those sections, or section 32 (a), (b), (d) or (l);

“**specified**” means specified in the declaration.

”.

7. Part II heading amended

The heading to Part II is amended by deleting “Supply authorities” and inserting instead —

“

Powers, rights and obligations

”.

8. Part II Division 1 heading deleted

The heading to Part II Division 1 is deleted.

9. Sections 7, 8, 9 and 10 repealed

Sections 7 to 10 are repealed.

10. Section 13 repealed

Section 13 is repealed.

11. Sections 15, 16 and 17 repealed

Sections 15 to 17 are repealed.

12. Part II Division 2 heading deleted

The heading to Part II Division 2 is deleted.

13. Part II Division 3 heading deleted

The heading to Part II Division 3 is deleted.

14. Section 25 amended

- (1) Section 25 is amended by deleting “supply authority” in each place where it occurs and inserting instead —

“ network operator ”.

- (2) Section 25(1)(c) is amended by deleting “, maintain a supply sufficient for the use of all consumers for the time being entitled to be supplied with electricity from that main, and in the case of” and inserting instead —

“ as ”.

Note: The heading to section 25 will be altered to read “**Duties as to supply of electricity**”.

15. Section 32 amended

- (1) Section 32(1) is amended as follows:
- (a) in paragraphs (n), (o) and (r) by deleting “supply authority” in each place where it occurs and inserting instead —
“ network operator ”;
 - (b) in paragraph (q) by deleting “persons operating generating stations” and inserting instead —
“ network operators ”;
 - (c) by deleting paragraph (g).
- (2) Section 32(2) is amended by deleting “either general or restricted to the whole or any part of the area of the district or districts of a particular local government or particular local governments, and” and inserting instead —
“ restricted to any part of the State or ”.
- (3) Section 32(5) and (6) are repealed.

16. Section 42 replaced

Section 42 is repealed and the following section is inserted instead —

“

42. Apparatus

- (1) A network operator is not entitled to insist on the use of any special form of electrical installation, apparatus or fitting, by any person.
- (2) However a person is not entitled —
 - (a) to use any form of electrical installation, apparatus or fitting; or
 - (b) to use or deal with electricity supplied to the person for any purpose or in any manner,that would interfere unduly or improperly with the supply of electricity to any other person.

”.

17. Section 45 amended

Section 45 is amended by deleting “supply authority” in both places where it occurs and inserting instead —

“ network operator ”.

18. Section 46 repealed

Sections 46 is repealed.

19. Section 53 amended

Section 53(1) is amended by deleting “supply authority” and inserting instead —

“ network operator ”.

Division 2 — *Electricity Corporation Act 1994* amended

20. The Act amended

The amendments in this Division are to the *Electricity Corporation Act 1994**.

[* *Reprint 2 as at 3 January 2003.*
For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 118.]

21. Section 3 amended

(1) Section 3 is amended as follows:

- (a) by inserting before “In this Act” the subsection designation “(1)”;
- (b) in the definition of “subsidiary” by deleting paragraph (a) and “and” after it and inserting instead —
“
(a) a body determined to be a subsidiary of the corporation under subsection (2); or
”.

(2) At the end of section 3 the following subsection is inserted —

- “
- (2) Part 1.2 Division 6 of the Corporations Act applies for the purpose of determining whether a body is a subsidiary of the corporation.
- ”.

22. Section 28 amended

(1) Section 28(3) is amended by deleting “The” and inserting instead —

“ Subject to subsection (3a), the ”.

- (2) After section 28(3) the following subsections are inserted —

“

- (3a) Without limiting section 66, the Minister may under that section direct the corporation —

- (a) not to perform a function specified in the direction;
- (b) not to perform a function specified in the direction to an extent, or except to an extent, specified in the direction; or
- (c) not to perform a function specified in the direction in or in relation to an area, or except in or in relation to an area, specified in the direction.

- (3b) Subsection (3a) does not authorise a direction of a kind mentioned in section 38A(1).

”.

23. Section 31A inserted

After section 31 the following section is inserted —

“

31A. Segregation of functions

- (1) Regulations under section 100 may provide for, and in relation to —
- (a) the segregation of any segment of the corporation's operations mentioned in section 62(2) from the other functions or operations of the corporation; or
 - (b) the segregation from the corporation of any subsidiary of the corporation that has any functions or operations of a specified kind.

- (2) Regulations referred to in subsection (1) may make provision for, or in relation to —
- (a) the keeping of accounts and records;
 - (b) financial reporting;
 - (c) the apportionment of income, expenditure, assets and liabilities;
 - (d) the protection of information;
 - (e) the conduct of officers of the corporation; and
 - (f) controls and procedures, and the conferral of functions on a specified person, to ensure that any required segregation is effective.

”.

24. Section 62 amended

- (1) Section 62(2)(a) is amended as follows:
- (a) in subparagraph (i) by inserting after “electricity” —
“ within the South West interconnected system ”;
 - (b) by deleting subparagraphs (ii) and (iii) and inserting instead —
“
 - (ii) the transmission and distribution of electricity within the South West interconnected system;
 - (iii) the sale of electricity within the South West interconnected system;”.

- (2) After section 62(2) the following subsection is inserted —

“

- (2a) In subsection (2) —
“**South West interconnected system**” has the meaning given to that term in section 3 of the *Electricity Industry Act 2004*.

”.

25. Section 66 amended

Section 66(1) is amended as follows:

- (a) by deleting “generally”;
- (b) by inserting after “functions” —

“

, either generally or in relation to a particular matter,

”.

26. Section 95A inserted

After section 95 the following section is inserted —

“

95A. Phasing-out of operation of access and procurement provisions

- (1) The Minister may, by instrument published in the *Government Gazette*, declare that a specified relevant provision does not have effect on and after a specified day, and a declaration so made has effect accordingly.
- (2) A declaration is not to be made in respect of a relevant provision unless the Minister is of the opinion that the matters to which the relevant provision relates are adequately dealt with, or will be adequately dealt with on and after the specified day, under —
 - (a) Part 8 of the *Electricity Industry Act 2004* and the Code established under that Part; or
 - (b) Part 9 of the *Electricity Industry Act 2004* and the regulations made and market rules established under that Part.
- (3) A declaration is not to be made after the expiration of the period of 2 years beginning on the day of the insertion of subsection (1) into this Act by the *Electricity Legislation Amendment Act 2004*.

- (4) Regulations made under section 100 may —
- (a) repeal any specified provision that has ceased to have effect because of a declaration;
 - (b) effect any repeal of or amendment to any other provision of this Part or Schedule 5, 6 or 7 that is consequential on a repeal referred to in paragraph (a); and
 - (c) prescribe any matter that it is necessary or convenient to prescribe for transitional or savings purposes in relation to a declaration or in relation to a repeal or amendment referred to in paragraph (a) or (b).
- (5) In this section —
- “**declaration**” means a declaration made under subsection (1);
 - “**relevant provision**” means any of section 90, 91, 92 or 93 or Schedule 5, 6 or 7, or any portion of any of those sections or Schedules;
 - “**specified**” means specified in the declaration.

”.

Division 3 — *Electricity Industry Act 2004* amended

27. The Act amended

The amendments in this Division are to the *Electricity Industry Act 2004**.

[* Act No. 5 of 2004.]

28. Part 2 Division 7 heading amended

- (1) The heading to Part 2 Division 7 is amended by deleting “Other functions of the Authority” and inserting instead —

“

Administration and monitoring of licensing scheme and issue of codes

”.

29. Section 39 amended

- (1) Section 39(1) is amended by deleting “The” and inserting instead —

“ Subject to subsection (2b), the ”.

- (2) After section 39(2) the following subsections are inserted —

“

- (2a) If the Authority has not prepared and issued a code in respect of a code matter the Minister may —

- (a) prepare and issue a code in respect of that code matter; or
- (b) by notice published in the *Government Gazette*, declare that the Minister proposes to prepare and issue a code in respect of that code matter.

- (2b) If —

- (a) a code prepared and issued by the Minister; or
- (b) a declaration under subsection (2a)(b),

is in force in respect of a code matter, the Authority cannot issue a code in respect of that code matter.

- (2c) In subsections (2a) and (2b) —

“**code matter**” means —

- (a) the matter mentioned in subsection (2)(a);
- (b) the matter mentioned in subsection (2)(b);

- (c) the matter mentioned in subsection (2)(d); or
- (d) a matter referred to in subsection (2)(e).

”.

30. Section 79 amended

Section 79(2)(c) is amended by deleting “customers; and” and inserting instead —

“

customers and providing for compensation payments to be made to customers when standards of conduct are not met; and

”.

31. Section 89A inserted

After section 89 the following section is inserted —

“

89A. Regulations may modify application or operation of enactments to facilitate operation of code

The regulations may provide that a prescribed enactment —

- (a) does not apply in relation to the supply and marketing of electricity to customers;
- (b) does not apply in relation to the supply and marketing of electricity to customers to the extent prescribed;
- (c) does not apply in relation to the supply and marketing of electricity to customers to the extent that the enactment is inconsistent with the code; or
- (d) applies in relation to the supply and marketing of electricity to customers with such modifications as are prescribed.

32. Section 103 amended

Section 103 is amended by deleting the definition of “access” and inserting instead —

“

“access”, in relation to services, has a meaning corresponding with the meaning that it has when used in that context in the *Trade Practices Act 1974* of the Commonwealth;

”.

33. Section 104 amended

Section 104(2) is amended as follows:

- (a) in paragraph (l), by deleting “metering and other”;
- (b) by deleting paragraph (m).

34. Section 106 amended

Section 106(2) is amended by inserting after “agreement” —

“ or an enactment ”.

35. Section 115 amended

(1) Section 115(1) is amended as follows:

- (a) by inserting before “must” —
“ , or an associate of the network service provider, ”;
- (b) by deleting “aimed at” and inserting instead —
“ for the purpose of ”;
- (c) after paragraph (c), by inserting —

“

Penalty: \$100 000.

Daily penalty: \$20 000.

”.

- (2) Section 115(2) is amended as follows:
- (a) by inserting before “must” —
“ , or an associate of the person, ”;
 - (b) by deleting “aimed at” and inserting instead —
“ for the purpose of ”.
- (3) Section 115(3) is repealed (but not the penalties after it).
- (4) At the end of section 115 the following subsections are inserted —
- “
- (3) Without limiting subsection (1) or (2) —
 - (a) a person is taken to engage in conduct for a particular purpose if —
 - (i) the conduct is or was engaged in for purposes that include, or included, that purpose; and
 - (ii) that purpose is or was a substantial purpose;
 - (b) a person may be taken to have engaged in conduct for a particular purpose even though, after all the evidence has been considered, the existence of that purpose is ascertainable only by inference from the conduct of the person or of any other person or from other relevant circumstances.
 - (4) In this section —
 - (a) a reference to engaging in conduct is a reference to doing or refusing to do any act and includes a reference to —
 - (i) making a contract or arrangement or giving effect to

- a provision of a contract or arrangement;
- (ii) arriving at an understanding or giving effect to a provision of an understanding; or
- (iii) requiring a covenant to be given or giving a covenant;
- (b) a reference to refusing to do an act includes a reference to —
 - (i) refraining (otherwise than inadvertently) from doing the act; or
 - (ii) making it known that the act will not be done.
- (5) Subsection (1) or (2) does not apply to conduct in which a person engaged in accordance with an agreement, if the agreement was in force on 30 March 1995.
- (6) In this section —
 - “**associate**”, in relation to a person, has the meaning it would have under Part 1.2 Division 2 of the *Corporations Act 2001* of the Commonwealth if sections 13, 14, 16(2) and 17 of that Act were repealed.

”.

36. Schedule 1 amended

Schedule 1 item (k) is amended as follows:

- (a) by inserting before “under” —
 - “ or the Minister ”;
- (b) by deleting “Authority;” and inserting instead —
 - “ Authority or the Minister, as the case may be; ”.

Division 4 — *Energy Operators (Powers) Act 1979* amended

37. The Act amended

The amendments in this Division are to the *Energy Operators (Powers) Act 1979**.

[* *Reprinted as at 15 September 2000.*
For subsequent amendments see Act No. 53 of 2003.]

38. Long title amended

The long title is amended by deleting “the Western Power Corporation and certain other” and inserting instead —

“ **energy** ”.

39. Section 4 amended

- (1) In section 4(1) the following definition is inserted in the appropriate alphabetical position —

“

“electricity corporation” means Western Power Corporation or a body corporate that is a subsidiary, as defined in section 3 of the *Electricity Corporation Act 1994*, of Western Power Corporation;

”.

- (2) In section 4(1) the definition of “energy operator” is deleted and the following definition is inserted instead —

“

“energy operator” means an electricity corporation or —

- (a) in a prescribed provision as defined in section 45(1) of the *Electricity Industry Act 2004*, a person referred to in that section includes in a reference in that

prescribed provision to an energy operator;

- (b) in a provision of this Act referred to in Schedule 2 Part 1 or 2 of the *Energy Coordination Act 1994*, a person referred to in section 11ZO of that Act includes in a reference in that provision to an energy operator; and
- (c) in a provision to which paragraphs (a) and (b) both apply, a person referred to in either of those paragraphs;

”.

- (3) In section 4(1) the definitions of “concessionaire” and “linking-up scheme” are deleted.

40. Section 38 amended

Section 38(5) is amended by deleting “or deemed to be vested in an energy operator pursuant to section 44”.

41. Section 43 amended

- (1) After section 43(1) the following subsection is inserted —

“

- (1aa) Where any works or other things are or have been placed upon, in, over or under any land by a person under an agreement or arrangement —
 - (a) entered into by the energy operator in the performance or purported performance of its functions; and
 - (b) under which the property in those works or other things is to pass to the energy operator on the occurrence of an event specified in the agreement or arrangement (the “**transfer event**”),

those works or other things shall be taken to have been lawfully so placed and, on and from the transfer event are, and shall at all times continue to be, the property of the energy operator, unless the energy operator has otherwise specified or may otherwise determine, and the energy operator shall be taken to have a right of access to them for the purposes of the performance of its functions.

”.

(2) Section 43(2) is amended by inserting after “(1)” —

“ or (1aa) ”.

42. Section 45 amended

Section 45(4)(b) is amended by deleting “in the case of the Western Power Corporation,”.

43. Section 46 amended

Section 46(12) is amended as follows:

(a) by inserting after “energy operator” where it first occurs —

“

responsible for the operation of existing
distribution works

”;

(b) by deleting “existing distribution” and inserting instead —

“ those ”.

44. Section 57 amended

- (1) Section 57(1) is repealed and the following subsections are inserted instead —

“

- (1) In this section —

“distribution system” means distribution works and service apparatus pertaining to distribution works;

“system emergency” means any event or circumstance arising or reasonably expected to arise in relation to any distribution system —

- (a) by reason of which the ability of the operator of the distribution system to maintain a supply of energy from the distribution system is, or may reasonably be expected to be, affected (and for the purposes of this section a reference to a distribution system is taken to extend to any act, matter or thing which affects, or in the opinion of the operator or the Minister may affect, the supply of energy or the obtaining or manner of delivery of any energy or energy resource);

- (b) by reason of which —

- (i) any life or property is or may be endangered;
- (ii) the normal operation of the whole or any part of the distribution system has been, or may be, or should be interrupted, curtailed or terminated;
or
- (iii) the capacity of the distribution system is for any reason insufficient to satisfy any demand or anticipated demand by supply in the normal manner;

and

- ”.
- (c) which, in the opinion of the operator of the distribution system, requires the immediate exercise of the powers conferred by subsection (2) or which, in the opinion of the operator or the Minister, requires the exercise of the powers conferred by subsection (3).
- (1a) If a system emergency exists in relation to a distribution system, the operator of the distribution system is to notify the Minister of the system emergency as soon as practicable after becoming aware of it.
- (2) Section 57(2) is amended as follows:
- (a) by deleting “any superior officer or to the corporation” and inserting instead —
“ the Minister ”;
 - (b) by deleting “then an officer or servant of the corporation” and inserting instead —
“ the operator of the distribution system ”;
 - (c) by deleting “him”, in both places where it occurs, and “he” and inserting instead —
“ it ”.
- (3) Section 57(3) is amended as follows:
- (a) in paragraph (a) by deleting “corporation may, as it seems fit and the circumstances shall reasonably allow, make such order as the corporation” and inserting instead —
“ Minister may make any order that the Minister ”;
 - (b) after paragraph (a)(i) by inserting —
“ and ”;
 - (c) after paragraph (a)(ii) by deleting “and”;

- (d) by deleting paragraph (a)(iii) and “and” below it;
 - (e) in paragraph (b) by deleting “the corporation”, in both places where it occurs, and “it” and inserting instead —
“ the Minister ”;
 - (f) after paragraph (b) by deleting the full stop and inserting instead —
“
; and
(c) the Minister may by order delegate, either generally or specifically, to an energy operator any power of the Minister under this section.”.
- (4) After section 57(3) the following subsections are inserted —
- “
- (3a) An energy operator to whom a power is delegated under subsection (3)(c) cannot delegate that power but can perform it through a member of its staff or an agent.
 - (3b) An energy operator exercising a power that has been delegated to it under subsection (3)(c) is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- ”.
- (5) Section 57(6) is amended by deleting “corporation” and inserting instead —
- “ Minister ”.
- (6) Section 57(8) is amended as follows:
- (a) by deleting “corporation” in the first place where it occurs and inserting instead —
“ operator of a distribution system ”;

- (b) by deleting “corporation” in each other place where it occurs and inserting instead —
“ operator ”.
- (7) Section 57(9) is repealed and the following subsections are inserted instead —
“
- (9) While a system emergency exists and for so long afterwards as the circumstances reasonably require, a person given powers by this section may, without notice and without any warrant other than this subsection, immediately enter onto or into any land, premises or thing if it is necessary to do so to exercise any of those powers.
- (9a) Any question as to what is a necessary entry may be determined by the person exercising the power of entry, and in any proceedings the question is to be presumed, in the absence of evidence to the contrary, to have been determined in good faith.
- (9b) A person exercising a power of entry given by this section is required, as soon as practicable, to —
- (a) remove or cause to be removed any machinery, equipment or other thing that the person brought or caused to be brought onto or into the land, premises, or thing for the purpose for which entry was made; and
- (b) make good any physical damage caused in the course of exercising the powers for the purposes of which entry was made, or pay compensation or effect restoration, rehabilitation or restitution.
- (9c) If entry is effected under this section for the purpose of exercising powers under subsection (3), the Minister may recover as a debt from the operator of the distribution system concerned the costs of any

expenses incurred in dealing with the system emergency, including any expenses incurred in complying with obligations under subsection (9b).

- (9d) While an order under subsection (3) is in force, any person authorised by the Minister in writing to do so may, without prior notice, enter premises supplied with energy of the kind to which the order relates and there make any search or examination necessary to determine whether the order is, in respect of those premises, being contravened in any respect.
- (9e) Without limiting anything in this section, the Minister may do anything the Minister considers necessary to prevent the occurrence of a system emergency.

”.

- (8) Section 57(10) is amended as follows:
- (a) in paragraph (a) by deleting “the corporation or any officer or servant of the corporation” and inserting instead —
“ a person ”;
 - (b) in paragraph (a) of the penalty by deleting “\$1 000” and inserting instead —
“ \$5 000 ”;
 - (c) in paragraph (b) of the penalty by deleting “\$10 000” and inserting instead —
“ \$50 000 ”.

Note: The heading to section 57 will be altered by deleting “Supply” and inserting “**Distribution**” instead.

45. Section 123 amended

- (1) Section 123(1) is amended by deleting “or to facilitate the operation of the Electricity Corporation”.

- (2) Section 123(3)(a) is amended by deleting “the Electricity Corporation” and inserting instead —
“ an electricity corporation ”.

46. Section 124 amended

- (1) Section 124(1) is amended as follows:
- (a) by deleting “Electricity” and inserting instead —
“ Western Power ”;
 - (b) by deleting “its functions” and inserting instead —
“ the functions of an electricity corporation ”.
- (2) Section 124(1a) is amended by deleting “energy, or the supply of energy, of a kind which is within the corporation’s functions” and inserting instead —
“ electricity ”.
- (3) Section 124(4) is amended:
- (a) by deleting “the corporation” in paragraphs (a), (b), (d)(i), (d)(ia), (d)(vii), (d)(xi), (e), (k), (n) and (p) and in the first place where it occurs in paragraphs (d)(iaa), (h), (j) and (o) and inserting instead —
“ an electricity corporation ”;
 - (b) in paragraph (d)(iaa) by deleting “the corporation” in the second and third places where it occurs and inserting instead —
“ the electricity corporation ”;
 - (c) in paragraphs (h), (j) and (o) by deleting “the corporation” in the second place where it occurs and inserting instead —
“ the electricity corporation ”.
- (4) Section 124(5) is amended by deleting “corporation” in both places where it occurs and inserting instead —
“ Western Power Corporation ”.

Division 5 — Parliamentary Commissioner Act 1971 amended

47. The Act amended

The amendments in this Division are to the *Parliamentary Commissioner Act 1971**.

[* Reprinted as at 16 March 2001.

For subsequent amendments see Acts Nos. 35 and 53 of 2003.]

48. Section 34 amended

(1) Section 34(1) is amended as follows:

(a) by deleting “of the gas industry” and inserting instead —

“ of an energy ”;

(b) in paragraph (a), by deleting “gas industry”.

(2) Section 34(4) is amended by deleting “the gas industry” and inserting instead —

“ that energy ”.

(3) Section 34(7) is repealed and the following subsection is inserted instead —

“

(7) In this section —

“**energy ombudsman scheme**” means a scheme approved under section 11ZPZ of the *Energy Coordination Act 1994* or section 92 of the *Electricity Industry Act 2004*;

“**governing body**” of an energy ombudsman scheme means the entity responsible for the operation of the scheme.

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