

# NORTHERN TERRITORY OF AUSTRALIA

## POWER AND WATER CORPORATION ACT

As in force at 1 January 2012

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 1 January 2012. Any amendments that commence after that date are not included.

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## POWER AND WATER CORPORATION ACT

**An Act to establish the Power and Water Corporation and for related purposes**

### Part I Preliminary

#### 1 Short title

This Act may be cited as the *Power and Water Corporation Act*.

#### 2 Commencement

- (1) Sections 1 and 2 shall come into operation on the day on which the Administrator's assent to this Act is declared.
- (2) The remaining provisions of this Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### 3 Definitions

In this Act, unless the contrary intention appears:

**Chief Executive Officer** means the person appointed under the *Government Owned Corporations Act* to be the chief executive officer of the Corporation.

**Corporation** means the Power and Water Corporation referred to in section 4.

**Northern Territory Electricity Commission** or **Commission** means the body corporate established under section 4 of the *Electricity Commission Act 1978*.

### Part II Power and Water Corporation

#### 4 Power and Water Corporation

There is hereby established the Power and Water Corporation.

**5 Corporation is Government owned corporation**

The Corporation is declared to be a Government owned corporation for the purposes of the *Government Owned Corporations Act*.

**6 Application of Public Sector Employment and Management Act**

- (1) Subject to this section, the Corporation is an Agency for the purposes of the *Public Sector Employment and Management Act* although it is not nominated in an Administrative Arrangements Order as an Agency for the purposes of that Act.
- (2) The Chief Executive Officer is the Chief Executive Officer of the Corporation for the purposes of the *Public Sector Employment and Management Act*.
- (3) The Chief Executive Officer is to be employed on the terms and conditions specified in his or her Executive Contract of Employment, within the meaning of the *Public Sector Employment and Management Act*.
- (4) The person appointed under the *Government Owned Corporations Act* to be the acting chief executive officer of the Corporation is, while acting in that office, to be taken to be appointed as the Chief Executive Officer for the purposes of the *Public Sector Employment and Management Act*.
- (5) The Chief Executive Officer is to have regard to the recommendations, if any, of the board of the Corporation in exercising his or her powers and performing his or her functions under the *Public Sector Employment and Management Act* (including a power or function delegated to the Chief Executive Officer under that Act).
- (6) Sections 19A, 22, 23, 24(3)(b) and (h) and 28 of the *Public Sector Employment and Management Act* do not apply to the Chief Executive Officer or a person acting as the Chief Executive Officer.
- (7) The Chief Executive Officer is responsible to the Minister for the performance of the Chief Executive Officer's functions under the *Public Sector Employment and Management Act* in relation to the Corporation.

**14 Functions of Corporation – electricity**

- (1) The functions of the Corporation in relation to electricity are:
  - (a) to generate, acquire, exchange, transport, distribute, market

and otherwise supply electricity;

- (b) to undertake, maintain and operate any works, system, facilities, apparatus or equipment required for any purpose referred to in paragraph (a);
  - (c) to use its expertise and resources to provide consultative, advisory or other services for profit;
  - (d) to develop and turn to account any technology, software or other intellectual property that relates to a function referred to in paragraph (a) or (b); and
  - (e) to manufacture and market any product that relates to a function referred to in paragraph (a), (b) or (d).
- (2) In addition to subsection (1), it is also a function of the Corporation:
- (b) to do anything that the Corporation determines to be conducive or incidental to the performance of a function referred to in subsection (1); and
  - (c) to do anything that it is authorised to do by any other written law.

#### **14A Functions of Corporation – water and sewerage**

- (1) The functions of the Corporation in relation to water and sewerage are:
- (a) to acquire, store, treat, distribute, market and otherwise supply water for any purpose;
  - (b) to collect, store, treat, market and dispose of wastewater;
  - (c) to undertake, maintain and operate any works, system, facilities, apparatus or equipment required for any purpose referred to in paragraph (a) or (b);
  - (d) to use its expertise and resources to provide consultative, advisory or other services for profit;
  - (e) to develop and turn to account any technology, software or other intellectual property that relates to a function referred to in paragraph (a), (b) or (c); and
  - (f) to manufacture and market any product or by-product that relates to a function referred to in paragraph (a), (b), (c) or (e).

- (2) In addition to subsection (1), it is also a function of the Corporation:
- (b) to do anything that the Corporation determines to be conducive or incidental to the performance of a function referred to in subsection (1); and
  - (c) to do anything that it is authorised to do by any other written law.
- (3) If the performance of any of the Corporation's functions referred to in subsection (1)(a), (b) or (c) requires that the Corporation hold a licence under the *Water Act*, the Corporation may only perform the function in accordance with the terms and conditions of the licence.
- (4) In subsection (1), **wastewater** means liquid waste, whether domestic or otherwise, and includes faecal matter and urine.

#### **14B Functions of Corporation – gas**

The functions of the Corporation in relation to gas are to buy, sell, process, store or transport:

- (a) gas or products derived from gas; or
- (b) products associated with gas or the products derived from it.

#### **14C Functions of Corporation – general**

- (1) The Corporation has any other functions that are conferred on it by or under this Act or any other enactment.
- (2) Subject to subsection (3), the Corporation has the functions of:
- (a) providing communications facilities and services; and
  - (b) providing other facilities and services.
- (3) The Corporation may only provide a particular kind of facility or service under subsection (2):
- (a) if the provision of the facility or service is consistent with the requirement that the Corporation act in a commercial manner; and
  - (b) with the approval of the Minister.
- (4) The Corporation may perform any of its functions in the Territory or elsewhere.

- (5) This section and sections 14, 14A and 14B do not impose on the Corporation any duty to perform any function that is enforceable by proceedings in a court.

## **15 Powers of Corporation**

- (1) The Corporation has power to do all things necessary or convenient to be done in connection with or incidental to the performance of its functions and all things related to the performance of its functions.
- (2) Without limiting subsection (1) or the other powers conferred on the Corporation by this Act or any other Act, the Corporation may for the purpose of performing any function:
- (d) apply for the grant or transfer of any mining or petroleum authority, licence, permit or tenement, or any other licence or authority, to the Corporation;
  - (e) acquire, establish and operate:
    - (i) any undertaking (including any necessary tenements and licences) for the production, recovery, conversion, processing or transport of any fuel or source of energy; and
    - (ii) any associated undertaking;
  - (f) produce and deal in:
    - (i) any by-product resulting from; or
    - (ii) any equipment, facilities or system associated with, the performance of any function of the Corporation;
  - (g) collect fees and charges for supplying electricity, water or gas or for providing sewerage, communications or other services;
  - (h) receive money by way of grant or subsidies from any authority;
  - (j) appoint agents or engage persons under contracts for services to provide professional, technical or other assistance to the Corporation;
  - (k) participate in any business arrangement and acquire, hold and dispose of shares, units or other interests in, or relating to, a business arrangement;

- (m) carry out any investigation, survey, exploration or boring;
  - (n) collaborate in, carry out, or procure the carrying out of, research and publish information that results from the research;
  - (p) for the purposes of section 14(1)(d) – apply for, hold, exploit and dispose of any patent, patent rights, copyright or similar rights; and
  - (q) promote and market the Corporation and its activities.
- (3) A power of the Corporation referred to in subsection (2) includes the power to determine:
- (a) when, where and to whom accounts for services may be rendered;
  - (b) the time after which unpaid accounts bear interest payable to the Corporation and the rate of interest;
  - (c) the time after which the Corporation will restrict, cease or disconnect a service the account for which is not paid in full, and the conditions under which the Corporation will restore or reconnect the service;
  - (d) discounts for payments made in advance or the rate of interest payable by the Corporation for accounts held in credit; and
  - (e) methods of assessing the supply of a product to a customer of the Corporation where it is not possible to read a meter at an appropriate time, or there is no meter.
- (4) If the generality of any power conferred on the Corporation by this Act is restricted by any provision of the *Electricity Reform Act*, *Water Act* or *Water Supply and Sewerage Act* that restriction applies despite this Act.
- (5) In subsection (2):

**business arrangement** means a company, a partnership, a trust, a joint venture or an arrangement for sharing profits.

**participate** includes form, promote, establish, enter, manage, dissolve, wind up, and do anything incidental to participating in a business arrangement.

**Part III                      Miscellaneous****19                      Exemption from rates, &c.**

- (1) Land vested in, committed to the care, control and management of, or acquired by the Corporation under or pursuant to this Act is exempted from local government rates, charges and taxes.
- (2) Subsection (1) does not exempt the Corporation from payment of charges for any commodity or service provided or supplied by a local government authority, whether the charge made be assessed upon the value of land occupied or owned by, vested in, committed to the care, control and management of, or acquired by the Corporation or otherwise.
- (3) Where land vested in, committed to the care, control and management of, or acquired by the Corporation is leased or let to a person, that land is not exempt from rates, charges or taxes under this section but any rates, charges or taxes payable in respect of the land are not payable by the Corporation but, if the law authorizing the imposition or levy of the rate, charge or tax so allows, are payable by the lessee or tenant of that land.

**20                      Protection of employees from personal liability**

An employee or agent of the Corporation is not personally liable for any act or default of that person or the Corporation done or omitted to be done in good faith in the course of the operations of the Corporation or for the purposes of this Act.

**22                      Authentication of documents**

A summons, process, demand, order, notice, statement, direction or other document requiring authentication by the Corporation is sufficiently authenticated without the seal of the Corporation if signed by a person authorised to do so by the board of the Corporation constituted under the *Government Owned Corporations Act*.

**24                      Money due to Corporation**

Any money due to the Corporation under this Act may be recovered by the Corporation as a debt.



**26 Regulations**

The Administrator may make regulations, not inconsistent with this Act, 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.

**27 Act binds the Crown**

This Act binds the Crown in right of the Territory.

**Part IV Savings and transitional****28 Certain property to vest in Authority**

- (1) Subject to section 30, on the commencement of this Act in respect of the operations of the unit of administration within the meaning of the *Public Service Act* known as the Northern Territory Water Authority:
  - (a) any levy, fee, charge, interest, debt, or money payable to the Territory shall become payable to and be recoverable by the Authority;
  - (b) all liabilities, contracts, and engagements, and all rights and authorities of any nature whatever of the Territory shall become liabilities, contracts, engagements, rights, and authorities of the Authority; and
  - (c) all rights, authorities, and licences granted or issued by the Territory shall continue in force on the same terms and conditions on which they were granted or issued or on which they arose as if such rights, authorities, and licences had been granted or issued by the Authority.
- (2) All estates and interests in property, real and personal, and rights (except property mentioned in subsection (1)) held by the Territory immediately before the commencement of this Act that is or are utilized by, or required for the purposes of the operation of, the unit of administration within the meaning of the *Public Service Act* known as the Northern Territory Water Authority shall, by virtue of this section and without further assurance, vest in the Authority in pursuance of subsection (3) subject to any liabilities, charges, obligations or trusts affecting the estates or interests.

- (3) The Minister shall from time to time as the estates and interests referred to in subsection (2) are identified or ascertained declare by instrument in writing that the property specified, either generally or specifically, in the instrument is property to which subsection (2) applies, and the Authority thereupon has such powers as are necessary to take possession of, recover, and deal with the property and enforce the rights.
- (4) On the lodgement of a copy of an instrument under subsection (3) with the Registrar-General or an officer controlling any register or other record of interests in property, the Registrar-General or that officer, as the case may require, shall, in respect of registrable estates or interests specified in the instrument, make the necessary entries in the relevant registers or records and generally do all such things as may be necessary to give effect to subsection (2).

### **30 Proceedings under Water Supply and Sewerage Act**

An action, prosecution or other proceeding begun under the *Water Supply and Sewerage Act* as then in force before the commencement of this Act may be continued as if this Act had never commenced, and an action, prosecution or other proceeding in respect of a thing done or omitted to be done under the *Water Supply and Sewerage Act* as then in force before the commencement of this Act may be brought, taken and prosecuted in the same manner as if this Act had never commenced.

### **31 References to Electricity Commission**

- (1) On the lodgment of a copy of this Act with the Registrar-General or a proper officer controlling any official register or record of real property vested in the Northern Territory Electricity Commission before the commencement of this Act (other than sections 1 and 2) or in which the Commission held, immediately before that commencement, an interest, the Registrar-General or that officer shall make the necessary entries in the relevant registers and other records to record the change of name of the body corporate of the Commission.
- (2) All references to the Commission in any security, licence, ADI account or instrument (including a contract, arrangement, Act, regulation, by-law or rule or court document relating to an action, prosecution or proceeding) which is subsisting immediately before the date of commencement of this Act, or in any notice or other communication served, given, or sent before, on, or after that date in relation to any such security, licence, ADI account, or instrument shall, unless the context otherwise requires, be read as references to the Authority.

- (3) By-laws made by the Commission under the *Electricity Commission Act* and in force as at the commencement of this Act, being by-laws which, after the commencement, could be made by the Authority under this Act shall not expire but continue in force as if they were made by the Authority, and may be amended by the Authority accordingly.

### **32 Territory to indemnify Authority**

The Territory shall indemnify the Authority, and keep the Authority indemnified, against all actions, claims or demands brought or made against the Authority in relation to an act done or omitted to be done under or pursuant to the *Water Supply and Sewerage Act* before the commencement of this Act, being actions, claims or demands that, but for this Act, could be brought or made against the Territory.

### **34 References to Authority**

- (1) A reference to the Power and Water Authority:
- (a) in any security, licence, bank account or instrument (including a contract, arrangement, Act, regulation, by-law or rule or court document relating to an action, prosecution or proceeding) or any other document, that subsists immediately before the commencement of the *Power and Water Amendment Act 2001*; or
  - (b) in any notice or other communication served, given, or sent before, on, or after the commencement of that Act in relation to the security, licence, bank account, or instrument,

is, unless the context otherwise requires, to be read as a reference to the Corporation.

- (2) On the commencement of the *Power and Water Amendment Act 2001*, a reference to the Power and Water Authority in any register or certificate relating to interests in land is to be taken to be a reference to the Power and Water Corporation.

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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2 LIST OF LEGISLATION*****Power and Water Authority Act 1987 (Act No. 20, 1987)***

Assent date	25 June 1987
Commenced	1 July 1987 ( <i>Gaz S48, 29 June 1987</i> )

***Power and Water Authority Amendment Act 1988 (Act No. 36, 1988)***

Assent date	14 September 1988
Commenced	14 September 1988

***Statute Law Revision Act 1989 (Act No. 60, 1989)***

Assent date	2 October 1989
Commenced	2 October 1989

***Power and Water Authority Amendment Act 1989 (Act No. 75, 1989)***

Assent date	12 December 1989
Commenced	2 January 1992 ( <i>Gaz S65, 20 December 1991</i> )

***Statute Law Revision Act 1990 (Act No. 33, 1990)***

Assent date	11 June 1990
Commenced	11 June 1990

***Power and Water Authority Amendment Act 1991 (Act No. 52, 1991)***

Assent date	26 September 1991
Commenced	26 September 1991

***Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)***

Assent date	30 June 1993
Commenced	1 July 1993 (s 2, s 2 <i>Public Sector Employment and Management Act 1993 (Act No. 11, 1993)</i> and <i>Gaz S53, 29 June 1993</i> )

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**Local Government (Consequential Amendments) Act 1993 (Act No. 84, 1993)**

Assent date 31 December 1993  
 Commenced 1 June 1994 (s 2, s 2 *Local Government Act 1993* (Act No. 83, 1993) and Gaz S35, 20 May 1994)

**Power and Water Authority Amendment Act 1994 (Act No. . 6, 1994)**

Assent date 16 March 1994  
 Commenced 13 May 1994 (Gaz S33, 13 May 1994)

**Amending Legislation**

**Statute Law Revision Act 1994 (Act No. 50, 1994)**

Assent date 20 September 1994  
 Commenced 20 September 1994

**Financial Management (Consequential Amendments) Act 1995 (Act No. 5, 1995)**

Assent date 21 March 1995  
 Commenced 1 April 1995 (s 2, s 2 *Financial Management Act 1992* (Act No. 4, 1995) and Gaz S13, 31 March 1995)

**Power and Water Authority Amendment Act 1998 (Act No. 39, 1998)**

Assent date 27 May 1998  
 Commenced 27 May 1998

**Power and Water Authority Amendment Act 1999 (Act No. 38, 1999)**

Assent date 31 August 1999  
 Commenced 17 May 2000 (s 2)

**Power and Water Authority Amendment Act 2000 (Act No. 8, 2000)**

Assent date 21 March 1999  
 Commenced 1 April 2000 (Gaz S14, 31 March 2000)

**Power and Water Authority Amendment Act 2001 (Act No. 70, 2001)**

Assent date 21 December 2001  
 Commenced s 8 (ext rep s 19: nc; rem: 1 July 2002 (Gaz G25, 26 June 2002, p 5)

**Statute Law Revision (Financial Provisions) Act 2002 (Act No. 38, 2002)**

Assent date 13 September 2002  
 Commenced 30 October 2002 (Gaz G43, 3 October 2002, p 3)

**Statute Law Revision Act (No. 2) 2002 (Act No. 59, 2002)**

Assent date 7 November 2002  
 Commenced 7 November 2002

**Public Sector Employment and Management Amendment Act 2011 (Act No. 29, 2011)**

Assent date 31 August 2011  
 Commenced 1 January 2012 (Gaz S73, 20 December 2011, p 2)

**3 SAVINGS AND TRANSITIONAL PROVISIONS**

ss 12 and 13 *Power and Water Authority Amendment Act 2001* (Act No. 70, 2001)

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#### 4 LIST OF AMENDMENTS

lt	amd No. 70, 2001, s 14
s 1	sub No. 70, 2001, s 4
pt II hdg	amd No. 70, 2001, s 14
s 3	amd No. 28, 1993, s 3; No. 6, 1994, ss 4 and 6; No. 38, 1999, s 4; No. 70, 2001, s 5
s 4	amd No. 5, 1995, s 19; No. 70, 2001, s 6
s 5	amd No. 28, 1993, s 3 sub No. 6, 1994, s 5; No. 38, 1999, s 5; No. 70, 2001, s 7
s 6	amd No. 28, 1993, s 3 sub No. 6, 1994, s 5 amd No. 38, 1999, s 6 sub No. 70, 2001, s 7 amd No. 29, 2011, s 45
pt IIA hdg	ins No. 6, 1994, s 5 om No. 38, 1999, s 7
s 7	amd No. 28, 1993, s 3 sub No. 6, 1994, s 5; No. 38, 1999, s 8 rep No. 70, 2001, s 7
s 8	sub No. 6, 1994, s 5 amd No. 38, 1999, s 9 rep No. 70, 2001, s 7
s 9	sub No. 6, 1994, s 5; No. 38, 1999, s 10 rep No. 70, 2001, s 7
s 10	sub No. 6, 1994, s 5; No. 38, 1999, s 10 rep No. 70, 2001, s 7
s 10A	ins No. 38, 1999, s 10 rep No. 70, 2001, s 7
s 11	amd No. 28, 1993, s 3; No. 6, 1994, s 6 No. 38, 1999, s 11 rep No. 70, 2001, s 7
s 12	amd No. 6, 1994, s 6 rep No. 70, 2001, s 7
s 13	amd No. 33, 1990, s 9; No. 28, 1993, s 3; No. 6, 1994, s 6; No. 38, 1999, s 12; No. 8, 2000 s 4 rep No. 70, 2001, s 7
s 14	amd No. 52, 1991, s 3; No. 39, 1998, s 3 sub No. 8, 2000, s 5 amd No. 70, 2001, s 14
s 14A	ins No. 8, 2000, s 5 amd No. 70, 2001, s 14
s 14B	ins No. 8, 2000, s 5 amd No. 70, 2001, s 14
s 14C	ins No. 8, 2000, s 5 amd No. 70, 2001, s 14
s 15	amd No. 36, 1988, s 2; No. 75, 1989, s 3; No. 52, 1991, s 4; No. 28, 1993, s 3; No. 39, 1998, s 4; No. 8, 2000, s 6; No. 70, 2001, s 14; No. 59, 2002, s 5
s 16	sub No. 38, 1999, s 13 rep No. 70, 2001, s 8
s 17	amd No. 39, 1998, s 5 rep No. 70, 2001, s 8
s 18	rep No. 28, 1993, s 3
s 19	amd No. 84, 1993, s 6; No. 59, 2002, s 5
s 20	amd No. 70, 2001, s 14

## ENDNOTES

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- s 21 rep No. 70, 2001, s 8  
s 22 amd No. 6, 1994, s 6; No. 70, 2001, s 9  
s 23 amd No. 28, 1993, s 3; No. 6, 1994, s 6  
rep No. 70, 2001, s 10  
s 24 amd No. 70, 2001, s 14  
s 25 amd No. 39, 1998, s 6  
rep No. 8, 2000, s 7  
s 28 amd No. 60, 1989, s 6  
s 29 rep No. 70, 2001, s 10  
s 31 amd No. 60, 1989, s 6; No. 38, 2002, s 6  
s 33 rep No. 70, 2001, s 11  
s 34 ins No. 70, 2001, s 11