NORTHERN TERRITORY OF AUSTRALIA

POWER AND WATER CORPORATION ACT

As in force at 2 June 2014

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 2 June 2014

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:

CEO means the person appointed under section 16 of 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.

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 Status as Agency

(1) The Corporation:

(a) is an Agency for the purposes of the *Public Sector Employment and Management Act*; and

(b) is not an Agency for the purposes of any other Act.

(2) An Administrative Arrangements Order cannot be made that nominates the Corporation as an Agency.

7 Matters relating to *Public Sector Employment and Management Act*

(1) The CEO is the Chief Executive Officer of the Corporation for the purposes of the *Public Sector Employment and Management Act*.

(2) The *Public Sector Employment and Management Act* applies in relation to the Corporation as if it had been amended as set out in the Schedule.

14 Functions of Corporation – electricity

(1) The functions of the Corporation in relation to electricity are:

(aa) to manage, plan, develop, expand, enhance, improve and reinforce electricity networks and power systems;

(ab) to provide and improve electricity network services;

(ac) to provide services designed to improve the efficiency of electricity supply and the management of demand on electricity networks;

(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 paragraphs (aa) to (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 paragraphs (aa) to (c); and

(e) to manufacture and market any product that relates to a function referred to in paragraphs (aa) to (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 required or authorised to do under the *Electricity Reform Act*, *Electricity Networks (Third Party Access) Act* or 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 provide billing, procurement, financial and commercial services to one or more of the following:

(a) the Power Generation Corporation established by section 5 of the *Power Generation Corporation Act*;

(b) the Power Retail Corporation established by section 5 of the *Power Retail Corporation Act*;

(c) a subsidiary of the Corporation, Power Generation Corporation or Power Retail Corporation.

(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.

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 council, 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.

(4) In this section:

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

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.

Schedule Modifications of Public Sector Employment and Management Act in relation to the Corporation

section 7(2)

1 Sections 22 and 23 modified

Sections 22 and 23

repeal

2 Section 24 modified

(1) Section 24(1)

omit, insert

(1) The functions of the Chief Executive Officer of the Power and Water Corporation under this Act are to employ and manage employees in accordance with this Act for the purpose of enabling the Corporation to perform its functions.

Note for subsection (1)

In the exercise of his or her functions, the Chief Executive Officer is subject to the direction of the Board of the Power and Water Corporation (see section 16(5) of the Government Owned Corporations Act).

(2) Section 24(2)(a)

omit

(3) Section 24(2)(b)

omit, insert

(b) upholds the human resource management principle and performance and conduct principle; and

(4) Section 24(3)(b) and (h)

omit

(5) Section 24(4)

omit

or any other Act.

insert

Act in relation to employees.

3 Sections 27 and 28 modified

Sections 27 and 28

repeal

ENDNOTES

1 KEY

Key to abbreviations

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

2 LIST OF LEGISLATION

Power and Water Authority Act 1987 (Act No. 20, 1987)

Assent date	25 June 1987
Commenced	1 July 1987 (*Gaz* S48, 29 June 1987)

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 (*Gaz* S65, 20 December 1991)

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 *Public Sector Employment and Management Act 1993* (Act No. 11, 1993) and *Gaz* S53, 29 June 1993)

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)

Power and Water Corporation Legislation Amendment Act 2014 (Act No. 13, 2014)

Assent date	13 May 2014
Commenced	29 May 2014 (*Gaz* S29, 29 May 2014, p 2)

Local Government Amendment Act 2014 (Act No. 19, 2014)

Assent date	2 June 2014
Commenced	s 16: 1 July 2014; s 18: 1 December 2014; rem: 2 June 2014 (s 2)

3 SAVINGS AND TRANSITIONAL PROVISIONS

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

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; No. 13, 2014, s 25
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 sub No. 13, 2014, s 26
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 ins No. 13, 2014, s 26
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; No. 13, 2014, s 27
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; No. 13, 2014, s 28
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 rep No. 13, 2014, s 29
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; No. 19, 2014, s 26
s 20	amd No. 70, 2001, s 14
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; No. 13, 2014, s 30
s 33	rep No. 70, 2001, s 11
s 34	ins No. 70, 2001, s 11
sch	ins No. 13, 2014, s 31