

GOVERNMENT PRICING TRIBUNAL ACT 1992 No. 39

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Definitions
4. Government monopoly services

PART 2—ESTABLISHMENT OF GOVERNMENT PRICING TRIBUNAL OF NEW SOUTH WALES

5. Establishment of Tribunal
6. Members and procedure of Tribunal
7. Tribunal not subject to Ministerial control in making determinations or recommendations
8. Staff of Tribunal
9. Arrangements with other agencies, consultants etc.
10. Delegation of Tribunal's functions

PART 3—PRICES AND PRICING POLICIES FOR GOVERNMENT MONOPOLY SERVICES ETC.

11. Investigations and reports by Tribunal—standing reference
12. Investigations and reports by Tribunal—reference by Minister
13. Investigations and reports by Tribunal—general provisions
14. Method of fixing maximum prices
15. Matters to be considered by Tribunal under this Act
16. Report on financial impact if maximum price not charged
17. Gazettal of price determinations
18. Implementation of price determinations and other reports
19. Reports to be made public

Government Pricing Tribunal Act 1992 No. 39

PART 4—CONDUCT OF INVESTIGATIONS BY TRIBUNAL

20. General conduct of investigations
21. Holding of hearings etc. for purposes of investigation
22. Furnishing of information and documents to, and giving evidence before, the Tribunal
23. Offences
24. Cabinet documents and proceedings

PART 5—MISCELLANEOUS

25. Act binds Crown
26. Personal liability of members etc.
27. Service of documents on Tribunal
28. Proceedings for offences
29. Regulations
30. Amendment of other Acts

SCHEDULE 1—GOVERNMENT AGENCIES FOR WHICH TRIBUNAL HAS
STANDING REFERENCE

SCHEDULE 2—PROVISIONS RELATING TO MEMBERS OF TRIBUNAL

SCHEDULE 3—PROVISIONS RELATING TO PROCEDURE OF TRIBUNAL AT
MEETINGS

SCHEDULE 4—AMENDMENT OF OTHER ACTS

GOVERNMENT PRICING TRIBUNAL ACT 1992 No. 39

NEW SOUTH WALES



Act No. 39, 1992

An Act to establish the Government Pricing Tribunal of New South Wales; to enable the Tribunal to determine and advise on prices and pricing policy for government monopoly services; and for other purposes.
[Assented to 19 May 1992]

The Legislature of New South Wales enacts:**PART I—PRELIMINARY****Short title**

1. This Act may be cited as the Government Pricing Tribunal Act 1992.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. (1) In this Act:

“Chairperson” means the Chairperson of the Tribunal;

“government agency” means any public or local authority which supplies services to the public or any part of the public, and includes a government department, state owned corporation or public utility undertaking which supplies such services;

“government monopoly service” is defined in section 4;

“investigation” means an investigation conducted under this Act;

“price” includes any rate, fee, levy and charge and any other valuable consideration (however described), but does not include a State tax;

“pricing policies” includes policies relating to the level or structure of prices for services;

“service” includes:

- (a) the supply of water, electricity, gas or other thing (whether or not of the same kind); and
- (b) the provision of public transport; and
- (c) the making available for use of facilities of any kind; and
- (d) the conferring of rights, benefits or privileges for which the price is payable in the form of royalty, tribute, levy or similar exaction; and
- (e) the exercise of the general functions of a public or local authority for which a rate or levy is payable by a section of the public,

but does not include anything for which a State tax is payable;

“State tax” means a tax such as land tax or stamp duty which is imposed for the public revenue purposes of the State;

“**Tribunal**” means the Government Pricing Tribunal of New South Wales established by this Act.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Government monopoly services

4. (1) For the purposes of this Act, a **government monopoly service** is a service supplied by a government agency and declared by the regulations or the Minister to be a government monopoly service.

(2) A service may be declared to be a government monopoly service if the Minister certifies that it is a service:

- (a) for which there are no other suppliers to provide competition in the part of the market concerned; and
- (b) for which there is no contestable market by potential suppliers in the short term in that part of the market.

(3) A service may be declared to be a government monopoly service by reference to:

- (a) a service specified or described in the declaration; or
- (b) the service for which a price specified or described in the declaration is payable.

(4) A declaration of a service by the Minister is to be made by order published in the Gazette.

PART 2—ESTABLISHMENT OF GOVERNMENT PRICING TRIBUNAL OF NEW SOUTH WALES

Establishment of Tribunal

5. (1) There is established by this Act a Government Pricing Tribunal of New South Wales. The Tribunal is a body corporate.

(2) The Tribunal has such functions as are conferred or imposed on it by or under this Act or any other Act.

Members and procedure of Tribunal

6. (1) The Tribunal consists of 3 members appointed by the Governor on the recommendation of the Minister.

(2) Of the members of the Tribunal:

- (a) 1 is to be appointed as Chairperson and either as a full-time or part-time member; and
- (b) 2 are to be appointed as part-time members.

(3) The Minister is to ensure that the persons recommended for appointment as members of the Tribunal have together a knowledge and understanding of economics, the interests of consumers and the interests of the Government as owner of the government agencies that supply government monopoly services.

(4) Schedule 2 has effect with respect to the members of the Tribunal.

(5) Schedule 3 has effect with respect to the procedure of the Tribunal.

Tribunal not subject to Ministerial control in making determinations or recommendations

7. The Tribunal is not subject to the control or direction of the Minister in respect of the contents of any determination or recommendation of the Tribunal, but in other respects is subject to the control and direction of the Minister.

Staff of Tribunal

8. (1) Such staff as may be necessary to enable the Tribunal to exercise its functions may be employed under Part 2 of the Public Sector Management Act 1988.

(2) The Tribunal may also employ staff. Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of any such staff.

(3) The Tribunal may arrange for the use of the services of any staff or facilities of a government agency.

(4) For the purposes of this Act, a person who is employed under subsection (1) or (2) or whose services are made use of under subsection (3) is an officer of the Tribunal.

Arrangements with other agencies, consultants etc.

9. (1) The Tribunal may enter into arrangements with government authorities, or other bodies having price-fixing or related functions, for assistance to the Tribunal in connection with investigations or the exercise of other functions of the Tribunal.

(2) The Tribunal may engage consultants to assist it in the exercise of its functions.

Delegation of Tribunal's functions

10. (1) The Tribunal may delegate its functions, other than this power of delegation, to any member of the Tribunal or to any committee of persons (whether of members only or members and other persons).

(2) The Tribunal may not delegate its function of making determinations or recommendations under this Act to a committee that includes persons who are not members of the Tribunal.

PART 3—PRICES AND PRICING POLICIES FOR GOVERNMENT MONOPOLY SERVICES ETC.**Investigations and reports by Tribunal—standing reference**

11. (1) The Tribunal is to conduct investigations and make reports to the Minister on the following matters:

- (a) the determination of the maximum price for a government monopoly service supplied by a government agency specified in Schedule (1).
- (b) a periodic review of pricing policies in respect of government monopoly services supplied by such an agency.

(2) The regulations may amend Schedule 1. An agency may not be added to Schedule 1 by the regulations unless it is a government agency.

Investigations and reports by Tribunal—reference by Minister

12. (1) The Tribunal is also to conduct investigations and make reports to the Minister on any of the following matters referred to the Tribunal by the Minister:

- (a) the determination of the maximum price for a specified government monopoly service;
- (b) a periodic review of pricing policies in respect of a specified government monopoly service.

(2) This section applies to a government monopoly service whether or not it is supplied by a government agency specified in Schedule 1.

(3) A reference with respect to the determination of the maximum price of a government monopoly service may extend to an annual or other periodic determination of that price.

(4) The Tribunal may request the Minister to refer a matter to the Tribunal under this section.

(5) If the Minister has referred a matter to the Tribunal for investigation and report, the Minister may withdraw or amend the reference at any time before the Minister has received the report from the Tribunal.

Investigations and reports by Tribunal—general provisions

(13) (1) The Minister may, in respect of an investigation and report under this Part by the Tribunal, do any or all of the following:

- (a) specify a period within which the report is required to be submitted to the Minister;
- (b) require the Tribunal to make a draft report available to the public, or to any specified persons or bodies, during the investigation;
- (c) require the Tribunal to consider specified matters when making its investigations,

and the Tribunal must act accordingly.

(2) The Tribunal is required to give notice of any investigation under this Part in a newspaper circulating in the State and to the government agency concerned. The notice (and any report of the investigation) is to include the terms of any reference by the Minister and of any requirement made by the Minister under subsection (1).

(3) The Tribunal is required, after considering any public comments or any such terms of reference, to settle the final terms of reference in the matter in consultation with the Minister.

(4) The Tribunal may also report to the Minister on any matter it considers relevant that arises from an investigation into a matter under this Part. Any such report may be part of the principal report to the Minister or may be a separate report.

(5) The fact that a determination of the maximum price of a government monopoly service is in force does not preclude a further investigation and report on the matter.

(6) An investigation and report with respect to a government monopoly service may be limited to a particular part or category of that service or to a particular period during which that service is supplied or in any other manner.

(7) An investigation and report may relate to a number of government monopoly services supplied by a government agency.

(8) A report is to include any minority report by a member of the Tribunal who wishes to make such a report.

Method of fixing maximum prices

14. (1) A determination of the Tribunal of the maximum price for a government monopoly service may fix that price in any manner the Tribunal considers appropriate, including the following:

- (a) by fixing an average price for a number of categories of the service;
- (b) by fixing a percentage increase or decrease in existing prices;
- (c) by fixing an average percentage increase or decrease in existing prices for a number of categories of the service;
- (d) by fixing a specified price for each category of the service (if any other manner is not considered appropriate).

(2) The Tribunal may fix such a price by reference to:

- (a) a general price index (such as the Consumer Price Index); or
- (b) the government agency's economic cost of production; or
- (c) a rate of return on the assets of the government agency.

Matters to be considered by Tribunal under this Act

15. In making determinations and recommendations under this Act, the Tribunal is to have regard to the following matters (in addition to any other matters the Tribunal considers relevant):

- (a) the cost of providing the services concerned;
- (b) the protection of consumers from abuses of monopoly power in terms of prices, pricing policies and standard of services;
- (c) the appropriate rate of return on public sector assets, including appropriate payment of dividends to the Government for the benefit of the people of New South Wales;
- (d) the effect on general price inflation over the medium term;
- (e) the need for greater efficiency in the supply of services so as to reduce costs for the benefit of consumers and taxpayers;
- (f) the protection of the environment (within the meaning of the Protection of the Environment Administration Act 1991) by appropriate pricing policies that take account of all the feasible options available to protect the environment;

- (g) the impact on pricing policies of borrowing, capital and dividend requirements of the government agency concerned and, in particular, the impact of any need to renew or increase relevant assets;
- (h) the impact on pricing policies of any arrangements that the government agency concerned has entered into for the exercise of its functions by some other person or body.

Report on financial impact if maximum price not charged

16. If the Tribunal determines to increase the maximum price for a government monopoly service, the Tribunal is required to assess and report on the likely annual cost to the Consolidated Fund if the price were not increased to the maximum permitted and the government agency concerned were to be compensated for the revenue foregone by an appropriation from the Consolidated Fund.

Gazettal of price determinations

17. (1) A determination in a report of the Tribunal of the maximum price for a government monopoly service:

- (a) is to be published in the Gazette by the Minister as soon as practicable after the report is received by the Minister; and
- (b) takes effect on the day it is so published or on a later day specified in the determination for that purpose.

(2) A determination may specify different days for the commencement of different parts of the determination.

Implementation of price determinations and other reports

18. (1) A determination of the Tribunal of the maximum price for a government monopoly service is to be implemented as follows:

- (a) if the price for the service is fixed by a Minister, a public official (other than the Governor) or the relevant government agency — the Minister, official or agency is to ensure that the price does not exceed the maximum price determined by the Tribunal;
- (b) in any other case — the Minister responsible for the supply of the service (or for the government agency that supplies the service) is required to take the appropriate action available to the Minister to ensure that the price does not exceed the maximum price determined by the Tribunal.

(2) The approval of the Treasurer must be obtained if another Minister, an official or an agency fixes (or takes action to fix) the price below the maximum price determined by the Tribunal.

(3) If a report of the Tribunal makes recommendations with respect to the pricing policies for a government monopoly service, the recommendations are to be taken into account in the fixing of prices for those services.

(4) A government agency which is the subject of a determination or recommendation of the Tribunal is required to include in its annual report:

- (a) particulars of how any such determination has been implemented; and
- (b) a statement of whether any such recommendation has been implemented and, if not, the reasons why it has not been implemented.

Reports to be made public

19. (1) As soon as practicable after the Minister receives a report from the Tribunal under this Act, the Minister is to arrange for copies of the report to be made available for public inspection.

(2) However, if the Tribunal in the special circumstances of the case recommends in its report that the public release of the report, or part of the report, be delayed for a specified period, subsection (1) applies to the report, or that part of the report, as if the report were received by the Minister at the end of that period.

(3) The arrangements under subsection (1) for making of copies of a report available for public inspection are to include:

- (a) the tabling of a copy of the report in each House of Parliament within 5 sitting days of the House; and
- (b) the forwarding of a copy of the report, within 5 days of its receipt by the Minister, to the Parliamentary Librarian to form part of the Parliamentary Library's collection; and
- (c) the making of a copy of the report available for public inspection at the office of the Tribunal during its ordinary hours of business.

(4) Copies of the report are also to be made available for sale at the principal office of the Government Information Service during its ordinary hours of business.

PART 4—CONDUCT OF INVESTIGATIONS BY TRIBUNAL

General conduct of investigations

20. (1) In an investigation, the Tribunal:

- (a) is to act with as little formality as possible; and

- (b) may inform itself on any matter in any way it thinks fit and is not bound by the rules of evidence; and
- (c) may receive information or submissions in the form of oral or written statements; and
- (d) may consult with such persons as it thinks fit.

(2) The Tribunal is not required to hear evidence from a government agency or any other person affected by any investigation of the Tribunal.

Holding of hearings etc. for purposes of investigation

21. (1) The Tribunal is required to hold at least one hearing for the purposes of each investigation and may hold further hearings if it considers that it is necessary to do so.

(2) The Tribunal may also hold public seminars, conduct workshops and establish working groups and task forces for the purposes of an investigation.

(3) Before the Tribunal begins to hold hearings for the purposes of an investigation, it must give reasonable notice, by advertisement published in a newspaper circulating in the State, of its intention to hold the hearings, the subject of the hearings and the time and place at which the first of the hearings is to begin.

(4) A hearing is to be held in public.

(5) However, if the Tribunal is satisfied that it is desirable to do so because of the confidential nature of any evidence or matter or for any other reason, it may:

- (a) direct that a hearing or a part of a hearing is to take place in private and give directions as to the persons who may be present; or
- (b) give directions prohibiting or restricting the publication of evidence given before the hearing or of matters contained in documents given to the Tribunal.

(6) A person must not contravene a direction given under subsection (5) (b).

Maximum penalty: 100 penalty units or imprisonment for 6 months, or both.

(7) Schedule 3 applies to a hearing, so far as that Schedule is capable of so applying, as if the hearing were a meeting of the Tribunal.

Furnishing of information and documents to, and giving evidence before, the Tribunal

22. (1) For the purposes of an investigation, the Chairperson may, by notice in writing served on an officer of a government agency or on any other person, require the officer or other person to do any one or more of the following:

- (a) to send to the Tribunal, on or before a day specified in the notice, a statement setting out such information as is so specified;
- (b) to send to the Tribunal, on or before a day specified in the notice, such documents as are so specified;
- (c) to attend at a hearing before the Tribunal to give evidence.

(2) If documents are given to the Tribunal under this section, the Tribunal:

- (a) may take possession of, and make copies of or take extracts from, the documents; and
- (b) may keep possession of the documents for such period as is necessary for the purposes of the investigation to which they relate; and
- (c) during that period must permit them to be inspected at all reasonable times by persons who would be entitled to inspect them if they were not in the possession of the Tribunal.

(3) A person (not being an officer of a government agency) who attends at a hearing because of a notice under this section is entitled to be paid by the State such allowances and expenses as are prescribed by the regulations or (subject to the regulations) as are approved by the Treasurer.

(4) Nothing in this section prevents the Tribunal from making documents given to the Tribunal under this section available for inspection by any person who the Tribunal considers has an interest in the matter unless the documents are exempt documents within the meaning of the Freedom of Information Act 1989.

Offences

23. (1) A person must not, without reasonable excuse:

- (a) refuse or fail to comply with a notice served under this Part; or
- (b) refuse or fail to answer a question that the person is required to answer by the Chairperson at any hearing held under this Part.

(2) It is a reasonable excuse for the purposes of subsection (1) that to comply with the notice or to answer the question might tend to incriminate the person or make the person liable to any forfeiture or penalty.

(3) A person must not:

- (a) give to the Tribunal, whether orally or in writing, information that the person knows to be false or misleading in a material particular (unless the person informs the Tribunal of that fact); or
- (b) at a hearing before the Tribunal, give evidence that the person knows to be false or misleading in a material particular.

(4) A person must not hinder, obstruct or interfere with the Chairperson or any other member of the Tribunal in the exercise of functions as Chairperson or other member.

(5) A person must not take any action that detrimentally affects the employment of another person, or threaten to do so, because that other person has assisted the Tribunal in any investigation.

Maximum penalty: 100 penalty units or imprisonment for 6 months, or both.

Cabinet documents and proceedings

24. (1) This Act does not enable the Tribunal:

- (a) to require any person to give any statement of information or answer any question which relates to confidential proceedings of Cabinet; or
- (b) to require any person to produce a Cabinet document; or
- (c) to inspect a Cabinet document.

(2) For the purposes of this section, a certificate of the head of The Cabinet Office that any information or question relates to confidential proceedings of Cabinet or that a document is a Cabinet document is conclusive of the matter certified.

(3) In this section:

“Cabinet” includes a committee of Cabinet or a subcommittee of such a committee;

“Cabinet document” means a document that is a restricted document by virtue of clause 1 of Part 1 of Schedule 1 to the Freedom of Information Act 1989.

PART 5—MISCELLANEOUS**Act binds Crown**

25. This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

Personal liability of members etc.

26. A matter or thing done by the Tribunal, a member of the Tribunal or any person acting under the direction of the Tribunal does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject the member or a person so acting personally to any action, liability, claim or demand.

Service of documents on Tribunal

27. (1) A document may be served on the Tribunal by leaving it at, or by sending it by post to:

- (a) the office of the Tribunal; or
- (b) if it has more than one office—any one of its offices.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Tribunal in any other manner.

Proceedings for offences

28. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Regulations

29. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

Amendment of other Acts

30. The Acts specified in Schedule 4 are amended as set out in that Schedule.

**SCHEDULE 1—GOVERNMENT AGENCIES FOR WHICH TRIBUNAL HAS
STANDING REFERENCE**

(Sec. 11)

Electricity Commission
 Sydney Electricity
 Water Board
 Hunter Water Corporation Limited
 Water supply authorities constituted under the Water Supply Authorities Act 1987
 County councils established for the supply of water or electricity
 Administrator of the South-west Tablelands Water Supply
 Administrator of the Fish River Water Supply
 State Rail Authority
 State Transit Authority
 Roads and Traffic Authority
 Department of Housing

SCHEDULE 2—PROVISIONS RELATING TO MEMBERS OF TRIBUNAL

(Sec. 6 (4))

Definitions

1. In this Schedule:

“full-time Chairperson” means the Chairperson if appointed as a full-time member,

“member” means any member of the Tribunal, including the Chairperson;

“part-time member” means a part-time member of the Tribunal, including the Chairperson if appointed as a part-time member.

Deputies

2. (1) The Minister may, from time to time, appoint a person to be the deputy of a member, and the Minister may revoke any such appointment. The persons appointed as deputies must have the same qualifications as those required of persons appointed as members.

(2) In the absence of a member, the member’s deputy:

(a) may, if available, act in the place of the member, and

(b) while so acting, has all the functions of the member and is taken to be a member.

(3) A person while acting in the place of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

Government Pricing Tribunal Act 1992 No. 39

SCHEDULE 2—PROVISIONS RELATING TO MEMBERS OF TRIBUNAL—
continued

(4) For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.

Terms of office of members

3. Subject to this Schedule, a member holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

4. (1) A full-time Chairperson is entitled to be paid
- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act 1975; and
 - (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of the Chairperson.

(2) A part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Vacancy in office of member

5. (1) The office of a member becomes vacant if the member:
- (a) dies; or
 - (b) completes a term of office and is not re-appointed; or
 - (c) resigns the office by instrument in writing addressed to the Minister; or
 - (d) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
 - (e) in the case of a full-time chairperson—is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or for 28 days in any period of 12 months; or
 - (f) in the case of a part-time member—is absent from 4 consecutive meetings of the Tribunal of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for having been absent from those meetings; or
 - (g) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (h) becomes a mentally incapacitated person; or
- is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.

Government Pricing Tribunal Act 1992 No. 39

SCHEDULE 2—PROVISIONS RELATING TO MEMBERS OF TRIBUNAL—
continued

(2) The Governor may remove a full-time Chairperson from office for misbehaviour, incompetence or incapacity.

(3) The Governor may remove a part-time member from office at any time.

Disclosure of pecuniary interests

6. (1) If:

- (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Tribunal; and
- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Tribunal.

(2) A disclosure by a member at a meeting of the Tribunal that the member:

- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause must be recorded by the Tribunal in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee (if any) determined by the Tribunal.

(4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Tribunal otherwise determines:

- (a) be present during any deliberation of the Tribunal with respect to the matter, or
- (b) take part in any decision of the Tribunal with respect to the matter.

(5) For the purposes of the making of a determination by the Tribunal under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the Tribunal for the purpose of making the determination; or
- (b) take part in the making by the Tribunal of the determination.

(6) A contravention of this clause does not invalidate any decision of the Tribunal.

Filling of vacancy in office of member

7. If the office of any member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Government Pricing Tribunal Act 1992 No. 39

SCHEDULE 2—PROVISIONS RELATING TO MEMBERS OF TRIBUNAL—
continued

Effect of certain other Acts

8. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member.

(2) If by or under any Act provision is made:

(a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or

(b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to the person under this Act as a part-time member.

SCHEDULE 3—PROVISIONS RELATING TO PROCEDURE OF
TRIBUNAL AT MEETINGS

(Sec. 6 (5))

Definition

1. In this Schedule:

“member” means a member of the Tribunal, including the Chairperson.

General procedure

2. The procedure for the calling of meetings of the Tribunal and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Tribunal.

Quorum

3. The quorum for a meeting of the Tribunal is 2 members (one of whom is to be the Chairperson).

Presiding member

4. (1) The Chairperson is to preside at a meeting of the Tribunal.

(2) The Chairperson has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

5. A decision supported by a majority of the votes cast at a meeting of the Tribunal at which a quorum is present is the decision of the Tribunal.

Government Pricing Tribunal Act 1992 No. 39

SCHEDULE 3—PROVISIONS RELATING TO PROCEDURE OF TRIBUNAL AT MEETINGS—*continued*

Transaction of business outside meetings or by telephone etc.

6. (1) The Tribunal may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Tribunal for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Tribunal.

(2) The Tribunal may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

- (a) the approval of a resolution under subclause (1); or
- (b) a meeting held in accordance with subclause (2),

the Chairperson and each member have the same voting rights they have at an ordinary meeting of the Tribunal.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Tribunal.

(5) Papers may be circulated among members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

First meeting

7. The Minister may call the first meeting of the Tribunal in such manner as the Minister thinks fit.

SCHEDULE 4—AMENDMENT OF OTHER ACTS

(Sec. 30)

Defamation Act 1974 No. 18

Insert in appropriate order:

Matters arising under the Government Pricing Tribunal Act 1992

17M. (1) There is a defence of absolute privilege for a publication to or by the Government Pricing Tribunal or to any member of the Tribunal or member of staff of the Tribunal in his or her capacity as such a member.

(2) This section applies in relation to any hearing before the Government Pricing Tribunal or any other matter relating to the powers, authorities, duties or functions of the Tribunal.

Government Pricing Tribunal Act 1992 No. 39

SCHEDULE 4 — AMENDMENT OF OTHER ACTS — *continued*

Prices Regulation Act 1948 No. 26

After section 3, insert:

Act not to apply to government monopoly services

3A. This Act does not apply to any government monopoly service to which the Government Pricing Tribunal Act 1992 applies.

Public Finance and Audit Act 1983 No. 152

Schedule 2 (**Statutory Bodies**):

Insert in alphabetical order the words “Government Pricing Tribunal.”.

Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

Schedule 2 (**Public Offices**):

Insert at the end of Part 1 the following matter:

Chairperson of the Government pricing Tribunal (being a full-time member).

*[Minister's second reading speech made in—
Legislative Assembly on 5 March 1992
Legislative Council on 5 May 1992]*