



New South Wales

Electricity Supply (General) Regulation 2001

under the

Electricity Supply Act 1995

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New South Wales

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Electricity Supply (General) Regulation 2001

under the

Electricity Supply Act 1995

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Electricity Supply (General) Regulation 2001*.

2 Commencement

This Regulation commences on 1 July 2001.

3 Definitions

(1) In this Regulation:

accreditation scheme means:

- (a) a scheme prepared by a service provider in accordance with Division 3 of Part 10, or
- (b) a Ministerially recognised accreditation scheme.

accrediting agency means:

- (a) a service provider, or
- (b) a Ministerially recognised accrediting agency.

contestable service means:

- (a) any service provided for the purpose of complying with Division 4 of Part 3 of the Act, and
- (b) any service comprising work relating to an extension of a service provider's distribution system or an increase in the capacity of a service provider's distribution system.

customer hardship charter means a customer hardship charter developed and implemented by a supplier under clause 13AA.

electricity industry ombudsman means the electricity industry ombudsman appointed under an approved electricity industry ombudsman scheme.

electricity marketer has the same meaning as in Part 5B of the Act.

energy services corporation has the same meaning as it has in the *Energy Services Corporations Act 1995*.

exempt last resort arrangement means an electricity supply arrangement exempted from the operation of section 179 of the Act under clause 68 (2) (f).

greenhouse gas benchmark statement means a statement required to be lodged by a benchmark participant under section 97CB of the Act.

guaranteed customer service standard means a service standard set out in Part 2 of Schedule 2 or Part 2 of Schedule 3 or, if the standard is varied as referred to in clause 44, the standard as so varied.

hardship customer means a small retail customer of a supplier who is identified as a customer experiencing financial difficulty in accordance with the supplier's customer hardship charter.

last resort supply arrangements means the electricity supply arrangements applicable under the plan required to be prepared and maintained by a retailer of last resort under clause 58.

licence holder:

- (a) for the purposes of a customer connection contract, means the service provider, and
- (b) for the purposes of a customer supply contract, means the supplier.

market operations rule means a rule approved under section 63C of the Act.

Ministerially recognised accreditation scheme means a scheme recognised by the Minister under clause 88.

Ministerially recognised accrediting agency means an accrediting agency recognised by the Minister under clause 88.

National Metering Identifier means the National Metering Identifier issued at (or in relation to) a metering installation and registered with NEMMCO in accordance with the *National Electricity Code*.

NECA means the National Electricity Code Administrator Limited ACN 073 942 775.

negotiated customer contract means a negotiated customer connection contract or a negotiated customer supply contract.

NEMMCO means the National Electricity Market Management Company Limited ACN 072 010 327.

new connection service means a connection service that is to be provided under a customer connection contract in respect of the following premises owned or occupied by a small retail customer:

- (a) premises that have never been connected to a distribution system,

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- (b) premises that have been previously connected to a distribution system but have no current connection to a distribution system because of action taken other than at a customer's request.

new occupant supply arrangement means an electricity supply arrangement exempted from the operation of section 98 of the Act under clause 68 (2) (e).

recognised code or recognised document, means a code or document approved in writing by the Director-General, notice of which has been given in a newspaper circulating throughout the State.

residential premises means:

- (a) any premises or part of premises (including any land occupied with the premises) used or intended to be used as a place of residence, and
- (b) includes a moveable dwelling (within the meaning of the *Local Government Act 1993*) or site on which a moveable dwelling is situated or intended to be situated (or both the moveable dwelling and the site), if the moveable dwelling is used or intended to be used as a place of residence.

retailer of last resort means a supplier to whose supplier's licence is attached a retailer of last resort's endorsement.

retailer of last resort's endorsement means an endorsement of a kind referred to in clause 57.

service provider means a distribution network service provider.

social program for energy means a program to ensure that energy services (including connection services and electricity supply) are available to those who are in need, including those who suffer financial hardship and those who live in remote areas, and includes:

- (a) any program for electricity bills payment assistance, and
- (b) any program for rebates to eligible pensioners, and
- (c) any program for rebates with respect to electricity used for life support systems.

standard form customer contract means a standard form customer connection contract or a standard form customer supply contract.

supplier means a retail supplier.

the Act means the *Electricity Supply Act 1995*.

- (2) Expressions defined for the purposes of Part 8A of the Act have the same meaning in this Regulation as they have in that Part.

4 Notes

The explanatory note, table of contents and notes in this Regulation do not form part of the Regulation.

Part 2 Standard retail suppliers

5 Endorsement conditions

For the purposes of section 33A (2) (c) of the Act, it is a condition of a standard retail supplier's endorsement that the supplier:

- (a) must give the Tribunal at least 30 days' notice in writing of any new regulated retail tariff or regulated retail charges before the tariff or charges take effect, and
- (b) must provide to the Tribunal such information as the Minister determines for the purpose of demonstrating that the new tariffs and charges are in accordance with the relevant determination of the Tribunal under Division 5 of Part 4 of the Act, and
- (c) must only accept elections under section 34 (2) of the Act if they are in accordance with clause 12.

6 (Repealed)

Part 3 Customers and customer rights

Division 1 Small retail customers

7 Small retail customers

- (1) For the purposes of section 92 of the Act, the prescribed rate is a rate of 160 MWh per year.
- (2) The following provisions apply for the purpose of estimating or measuring the consumption or expected consumption of electricity so as to determine whether or not a customer is a small retail customer:
 - (a) consumption is to be measured or estimated in respect of all premises that are owned or occupied in this State by the customer and that are covered by the same customer supply contract,
 - (b) consumption in the immediately preceding period of 12 months is to be measured (if applicable) by having regard to electricity consumption recorded in bills rendered during the relevant period or meter readings during the period.
- (3) A supplier must determine the rate of consumption or expected consumption of electricity of a customer of the supplier for the purpose of determining whether or not the customer is a small retail customer at the following times or intervals:
 - (a) at the commencement of a customer supply contract,
 - (b) if the terms and conditions of a negotiated customer supply contract relating to the customer are renegotiated and agreed to by the customer,
 - (c) at intervals of not less than 12 months during the term of a standard form customer supply contract,
 - (d) at any time that the supplier becomes aware that a customer may consume electricity at premises at a rate of less than 160 MWh per year, unless otherwise provided by the customer supply contract.
- (4) It is a condition of a supplier's licence that a supplier comply with this clause.

8 Changes to customer connection contracts on change to small retail customer

- (1) If a customer who is not a small retail customer and who is subject to a negotiated customer connection contract is classified during the term of the contract as a small retail customer, the service provider must ensure, not later than 90 days after the service provider becomes aware of the reclassification, that the contract is amended or replaced so as to comply

with the requirements under the Act and this Regulation for negotiated customer connection contracts with small retail customers.

- (2) It is a condition of a service provider's licence that the service provider comply with this clause.

9 Initial classification of small retail customers

- (1) It is a condition of the licence of a service provider holding a licence on the commencement of this Regulation that, as soon as practicable after that commencement, the service provider identify each customer of the service provider who was, on 31 December 2000, a franchise customer within the meaning of the Act.
- (2) A customer who is so identified is, for the purposes of the Act and this Regulation, taken to be a small retail customer until otherwise classified in accordance with this Regulation.

10 Market operations rules

Market operations rules may be made for or with respect to the following matters:

- (a) the notification of customer classification determinations by service providers and suppliers,
- (b) the registration, maintenance and disclosure of customer classification determinations by service providers and suppliers.

11 Notice procedures where small retail customers change supplier or status

- (1) This clause applies if any of the following events occur:
- (a) if a supplier becomes aware that a person who is or may be a small retail customer is being supplied with electricity by the supplier and is not subject to a customer supply contract but is subject to a new occupant supply arrangement,
- (b) (Repealed)
- (c) if the period of supply of electricity under a negotiated supply contract with a small retail customer ends,
- (d) if a supplier reclassifies a small retail customer taking supply under a standard form customer supply contract as being a customer who is not a small retail customer.
- (2) The supplier concerned must give written notice to the person or customer concerned of the following matters:
- (a) that, if the person or customer wishes to continue to be supplied with electricity at the premises, the person or customer must

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- arrange supply under a customer supply contract with the supplier or another supplier,
- (b) whether or not the person or customer is entitled to elect to take supply from a standard retail supplier under a standard form supply contract and, if the person or customer is so entitled and the supplier is not the relevant standard retail supplier, the contact details of the Tribunal,
 - (c) any charges that the person or customer may be liable to pay if the person or customer does not arrange supply under a customer supply contract,
 - (d) the circumstances in which the supplier may arrange for discontinuation of supply and the date on or after which the supply of electricity to the person's or customer's premises may be discontinued.
- (2A) The notice is to contain, in community languages (including Arabic, Cantonese, Vietnamese, Italian, Greek and Spanish, and any other language approved by the supplier after consultation with any relevant customer consultative group), information about the availability of interpreter services for the languages concerned and telephone numbers for the services.
- (3) In the case where the period of supply under a negotiated customer supply contract ends, the notice must be given not later than 21 days before the end of the period of supply under the contract.
 - (4) In any other case, the notice must be given as soon as practicable after the relevant event occurs.
 - (5) It is a condition of a supplier's licence that the supplier comply with this clause.
 - (6) A notice given under this clause may also constitute a notice given for the purposes of a customer supply contract if it complies with any requirements of the contract in relation to such a notice.

12 Election to be supplied under standard form customer supply contract

- (1) An election to be supplied with electricity by a standard retail supplier under a standard form customer supply contract may be made in writing, by telephone or by any means acceptable to the supplier.
- (2) As soon as practicable after the election is made, the supplier is to issue a written notice to the customer containing the following particulars:
 - (a) the name of the customer,
 - (b) the premises to be supplied with electricity,
 - (c) the customer's National Metering Identifier,

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- (d) the date that supply of electricity commenced or is expected to commence.
 - (3) The notice is to include the document required to be provided under clause 13.

13 Information given to persons who elect standard form contracts

- (1) As soon as practicable after an election is made by any person who is or may be a small retail customer for the provision of connection services or supply of electricity under a standard form customer contract, a licence holder must furnish the customer with a document:
 - (a) that sets out any relevant guaranteed customer service standards, and
 - (b) that indicates that those standards form part of the relevant customer contract, and
 - (c) that contains a statement of the customer's rights in relation to disputes and resolution of disputes with the licence holder, including particulars of any applicable approved electricity industry ombudsman scheme and the procedures for referring complaints and disputes to the electricity industry ombudsman under that scheme, and
 - (d) that sets out particulars of any rebate or relief available under any Government funded rebate or relief scheme under which a customer may obtain a rebate or relief from charges, and
 - (e) that indicates how copies of the licence holder's customer contracts may be obtained.
- (1A) The document is to contain, in community languages (including Arabic, Cantonese, Vietnamese, Italian, Greek and Spanish, and any other language approved by the supplier after consultation with any relevant customer consultative group), information about the availability of interpreter services for the languages concerned and telephone numbers for the services.
- (2) It is a condition of a licence holder's licence that the licence holder comply with this clause.

13AA Licence condition relating to customer hardship charters

- (1) It is a condition of a licence of a supplier who supplies electricity to small retail customers that the supplier must:
 - (a) develop and implement a customer hardship charter in respect of small retail customers who own or occupy residential premises, and

- (b) publish the customer hardship charter on the supplier's website, and
- (c) as soon as practicable after a customer is identified by the supplier as a hardship customer:
 - (i) inform the hardship customer of the existence of the customer hardship charter, and
 - (ii) provide the hardship customer with a copy of the customer hardship charter on request and at no expense.
- (2) The purpose of a customer hardship charter is to assist hardship customers to better manage their energy bills on an ongoing basis.
- (3) A customer hardship charter must contain the following:
 - (a) processes to identify hardship customers, including identification by the supplier and self-identification by the customer,
 - (b) processes for the early response by the supplier for hardship customers so identified,
 - (c) flexible payment options (including the payment plan operated in accordance with clause 13A (1)) for the payment of amounts to the supplier by hardship customers,
 - (d) processes to identify appropriate government concession programs and appropriate financial counselling services and to notify hardship customers of those programs and services,
 - (e) an outline of a range of programs that the supplier may use to assist hardship customers,
 - (f) information, in community languages (including Arabic, Cantonese, Vietnamese, Italian, Greek and Spanish, and any other language approved by the supplier after consultation with any relevant customer consultative group), about the availability of interpreter services for the languages concerned and telephone numbers for the services.

13A Licence condition relating to payment plans, disconnection and discontinuance of supply

- (1) It is a condition of a licence of a supplier who supplies electricity to a small retail customer that the supplier operate a payment plan:
 - (a) applying to small retail customers who own or occupy residential premises and who are, in the supplier's opinion, experiencing financial difficulty, and
 - (b) that complies with subclause (2) and is approved by the Minister for the purposes of this clause.
- (2) The payment plan must:

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- (a) enable customers to make payments by instalments, in advance or arrears, and
 - (b) provide for the customer to be informed of the following matters:
 - (i) the period, or periods, of the payment plan,
 - (ii) the amount of each instalment and the frequency of instalments,
 - (iii) if the customer is in arrears, the number of instalments required to pay the arrears,
 - (iv) if the customer is to pay in advance, the basis on which instalments are calculated, and
 - (c) provide for instalments to be calculated having regard to a customer's consumption needs, a customer's capacity to pay and the amount of any arrears a customer is required to pay, and
 - (d) provide procedures that are fair and reasonable for dealing with the financial difficulty faced by a customer who is obtaining the benefit of the scheme.
- (3) It is a condition of a licence of a supplier who supplies electricity to small retail customers that the supplier does not discontinue supply to residential premises owned or occupied by a small retail customer or, in a case where connection services have been arranged by the supplier, request the service provider to disconnect such premises, on the grounds that the customer has failed to make due payment of money owed to the supplier, unless in the previous 12 months:
- (a) the supplier has twice provided to the customer a written notice that:
 - (i) advises the customer that the supplier intends to disconnect or discontinue supply to the customer, and
 - (ii) offers customers who are experiencing financial difficulty assistance under the payment plan operated by the supplier, and

Note. The supplier's notice of intention to disconnect or discontinue supply and the notice of the offer of assistance under the supplier's payment plan must be included in the same document.
 - (b) the customer has:
 - (i) agreed to neither offer of assistance, or
 - (ii) agreed to one offer of assistance but not the other offer, but the assistance to which the customer agreed has been cancelled due to the failure by the customer to make due payment in accordance with the payment plan, or
 - (iii) agreed to both of the offers of assistance but in both cases the assistance has been cancelled due to the failure by the

customer to make due payment in accordance with the payment plan.

- (4) It is a condition of a licence of a service provider who provides customer connection services to a small retail customer through an arrangement with the supplier that the service provider does not disconnect residential premises owned or occupied by the small retail customer at the request of the supplier unless the supplier has notified the service provider that it is authorised to make the request under subclause (3).
- (5) (Repealed)
- (6) The Minister's approval of a payment plan:
 - (a) has effect for the period of time specified in the approval, and
 - (b) is subject to such conditions as the Minister may specify in the approval, which may include a condition requiring the supplier to submit the payment plan for review when requested by the Minister.

Division 2 Disconnection and discontinuance of supply

14 Limitation on right to have premises provided with customer connection services

- (1) For the purposes of section 15 (3) of the Act, a service provider is authorised to disconnect premises from, or refuse to connect premises to, a distribution system if the person who owns or occupies the premises:
 - (a) has failed to provide any security required by the service provider for the payment of any charge (not being a security agreed to be provided to the service provider on behalf of the person by a supplier), or
 - (b) has failed to pay an amount due to the service provider with respect to the provision of customer connection services (not being an amount agreed to be provided to the service provider on behalf of the person by a supplier), or
 - (c) has refused or failed to give an authorised officer access to any premises supplied with connection services by the service provider for any of the purposes specified in section 54 of the Act, or
 - (d) has obstructed the authorised person in relation to any act, matter or thing done or to be done in carrying out those purposes, or
 - (e) is not a party to a customer supply contract or a party to a new occupant supply arrangement or exempt last resort arrangement.

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- (2) A service provider must not disconnect premises from its distribution system on a ground referred to in subclause (1) unless the service provider has:
- (a) in the case of premises the subject of a standard form customer connection contract or owned or occupied by a small retail customer, complied with the requirements of the customer connection contract with respect to the disconnection of the premises, or
 - (b) in any other case, given the customer reasonable notice of its intention to disconnect the premises to allow the customer a reasonable opportunity to remedy that ground or to enter a customer supply contract, as the case requires.
- (3) For the purposes of section 15 (3) of the Act, a service provider is also authorised to disconnect premises from, or refuse to connect premises to, a distribution system if:
- (a) the person who owns or occupies the premises:
 - (i) is a party to one or more contracts for the supply of electricity, or
 - (ii) is subject to a new occupant supply arrangement or exempt last resort arrangement, and
 - (b) in the case of a contract or supply arrangement the existence of which has been notified to the service provider, each supplier responsible for supplying electricity to the customer under any such contract or arrangement:
 - (i) has requested that the premises be disconnected, and
 - (ii) has notified the service provider that it has complied with any applicable requirements of this Regulation or the contract or arrangement relating to the giving of notice as to discontinuance of supply of electricity to the premises.
- (4) Nothing in this clause affects the right to interrupt continuous supply as agreed in a customer connection contract.
- (5) Nothing in this clause affects any right or obligation to disconnect premises, or to refuse to connect premises, arising from the operation of the *Electricity Supply (Safety and Network Management) Regulation 2002* or *Electricity (Consumer Safety) Act 2004*.

15 Limitation on right to have premises supplied with electricity

- (1) For the purposes of section 34 (6) of the Act, a standard retail supplier is authorised to refuse to supply premises with electricity, or to discontinue the supply of electricity, if the person who owns or occupies the premises:

- (a) has failed to provide the security required by the standard retail supplier for the payment of any charge with respect to the supply of electricity or connection services arranged by the supplier, or
 - (b) has failed to pay an amount due to the standard retail supplier with respect to the supply of electricity or connection services arranged by the supplier, or
 - (c) has refused or failed to give an authorised officer access to any premises supplied with electricity by the standard retail supplier in accordance with any right to access provided for in the Act or in the customer supply contract, or
 - (d) has obstructed the authorised person in relation to any act, matter or thing done or to be done in carrying out any function under the relevant customer supply contract, or
 - (e) is a small retail customer taking supply under a standard form customer supply contract who is reclassified as not being a small retail customer, or
 - (f) is a small retail customer taking supply under a negotiated supply contract with the standard retail supplier and the period of supply of electricity under that contract ends.
- (2) A standard retail supplier must not discontinue the supply of electricity to premises on a ground referred to in subclause (1) (a)–(d) unless the supplier has:
- (a) in the case of premises owned or occupied by a small retail customer, complied with the requirements of the customer supply contract and this Regulation, or
 - (b) in any other case, given the customer reasonable notice of its intention to discontinue supply to the premises to allow the customer a reasonable opportunity to remedy that ground.
- (3) A standard retail supplier must not discontinue the supply of electricity to premises on a ground referred to in subclause (1) (e) or (f) unless the supplier has given the customer notice under clause 11 and a reasonable time to enter into a customer supply contract.
- (4) Nothing in this clause affects the right to interrupt continuous supply as agreed in a customer supply contract.
- (5) Nothing in this clause affects any right or obligation to refuse to supply, or to discontinue supply, arising from the operation of the *Electricity Supply (Safety and Network Management) Regulation 2002* or *Electricity (Consumer Safety) Act 2004*.

16 Discontinuance of supply under negotiated customer supply contract

It is a condition of a supplier's licence that the supplier must not discontinue the supply of electricity to the premises of a small retail customer under a negotiated customer supply contract unless the supplier has complied with the requirements of the contract.

Division 3 Customer consultation**17 Customer consultative groups**

- (1) A customer consultative group established by a service provider or standard retail supplier is to be constituted in accordance with a charter approved by the Minister and, if it is so constituted, is not required to comply with section 90 (1) and (2) of the Act.
- (2) Any such charter may also provide for other matters relating to the customer consultative group, including the procedure of the group (including meeting intervals), funding of the group and access to information by the group.
- (3) It is a condition of a licence of a service provider or standard retail supplier that the licence holder must, within the time required by the Minister:
 - (a) prepare a charter governing the constitution and procedure of a customer consultative group established by the licence holder, and
 - (b) submit the charter for approval by the Minister.

18 Limitation on functions of customer consultative groups

For the purposes of section 91 (2) and (3) of the Act, if a standard form customer contract refers to any code or document issued by Standards Australia, or to any recognised code or other recognised document, the customer consultative group does not have the function of advising the licence holder in relation to amendments to that code or document.

Division 4 Charges and bills**19 Obligations of licence holders**

It is a condition of a licence holder's licence that the licence holder comply with the applicable provisions of this Division.

20 Obligations where connection services arranged by supplier

A supplier that arranges for the provision of connection services on behalf of a customer must comply with this Division in relation to bills for such services.

21 Variation of charges under a standard form customer contract

- (1) A variation in the rates of charges for connection services provided or electricity supplied by a licence holder under a standard form customer contract has no effect, and may not be imposed, unless a notice setting out particulars of the variation is first:
 - (a) published by the relevant licence holder in a newspaper or newspapers circulating throughout New South Wales or the area in which the variation is to take effect and on the licence holder's internet site, or
 - (b) in relation to connection services provided or electricity supplied only to a particular customer or group of customers, is served on the customer or group of customers.
- (2) The particulars to be set out in any such notice must:
 - (a) specify the date on or after which the variation is to take effect being a date that is later than the date the notice is published or served, and
 - (b) include a statement of the new rates or the amount of the variation.
- (3) The notice may have general application or may be limited in its application by reference to specified exceptions or factors.

22 Variation of charges under a negotiated customer contract

- (1) A variation in the rates of charges for connection services provided or electricity supplied by a licence holder under a negotiated customer contract with a small retail customer has no effect, and may not be imposed, unless a written notice setting out particulars of the variation is served on the customer.
- (2) The particulars to be set out in such a notice must:
 - (a) specify the date on or after which the variation is to take effect being a date that is later than the date the notice is served, and
 - (b) include a statement of the new rates or the amount of the variation.

23 Variation may not operate retrospectively

A variation in the rates of charges for connection services provided or electricity supplied under a customer contract for which notice is required to be given under this Division operates from the date specified in the relevant notice of the variation and does not operate retrospectively.

24 Contents of bill

- (1) This clause applies to the following customer contracts:
 - (a) standard form customer contracts,
 - (b) negotiated customer contracts between licence holders and small retail customers.
- (2) The information to be included in a bill issued by the licence holder under a customer contract must include the following:
 - (a) the customer's name and bill number, the address of the customer's premises and any relevant mailing address,
 - (b) the customer's National Metering Identifier and checksum, prominently displayed,
 - (c) the dates on which the billing period began and ended,
 - (d) the total charges to be paid by the customer,
 - (e) the charges payable for services provided or arranged by the licence holder, separating those charges into charges in respect of electricity related charges (that is, customer connection services and electricity supply services) and charges in respect of other services and goods,
 - (f) the date by which the bill must be paid,
 - (g) the amount of any arrears and the due date for payment of the arrears,
 - (h) the amount of any credit received,
 - (i) any amount deducted, credited or received under:
 - (i) any named Government funded rebate or relief scheme, or
 - (ii) any payment plan operated by the licence holder,
 - (j) the methods by which the bill may be paid,
 - (k) the name of, and details of the availability of, any Government funded rebate or relief scheme,
 - (l) contact details for the licence holder's bill and payment enquiries service and a 24 hour contact phone number for faults and difficulties,
 - (m) in community languages (including Arabic, Cantonese, Vietnamese, Italian, Greek and Spanish, and any other language approved by the supplier after consultation with any relevant customer consultative group), information about the availability of interpreter services for the languages concerned and telephone numbers for the services.

- (2A) The information to be included in a bill issued by the licence holder under a customer contract must include the following if the customer is a small retail customer who has a complying generator installed and connected:
- (a) the amount of electricity supplied to the distribution network by the small retail customer during the billing period (or in the case of the first bill to include such information—the amount of electricity supplied up to and during the billing period), and
 - (b) the amount to be credited to the small retail customer in respect of that electricity.
- (3) The licence holder must include in the bill particulars of the components of charges that are network charges or the amount of any security held by the licence holder, if requested to do so by the customer.

25 Review of bills and related matters

- (1) This clause applies to the following customer contracts:
- (a) standard form customer supply contracts,
 - (b) negotiated customer supply contracts between suppliers and small retail customers.
- (2) A customer may make a complaint to the supplier about a bill issued by the supplier to the customer or any matter related to the bill or charges charged by the supplier to the customer, including for services arranged by the supplier.
- (3) A supplier must consider the complaint and may either determine that the bill or amount is correct or correct the bill or amount.
- (4) A review under this clause is taken to be a review under section 96 of the Act and Part 5 of this Regulation does not apply to any such review.

26 Correction where customer undercharged

- (1) This clause applies to the following customer contracts:
- (a) standard form customer supply contracts,
 - (b) negotiated customer supply contracts between suppliers and small retail customers.
- (2) If on a review of a complaint, or at any other time, the supplier determines that the customer has been charged less than the amount that should have been charged under the contract, the supplier may recover the amount that should have been charged.
- (3) However, the supplier may not recover an amount payable in respect of a period that is more than 12 months before the date on which the supplier notifies the customer of the determination.

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- (4) The amount to be recovered must be listed separately, and explained, on a bill issued to the customer and interest may not be charged on the amount.
 - (5) The supplier must give the customer a period of time to pay the amount to be recovered that is at least equal to the period during which the undercharging occurred, if requested to do so by the customer.

27 Correction where customer overcharged

- (1) This clause applies to the following customer contracts:
 - (a) standard form customer supply contracts,
 - (b) negotiated customer supply contracts between suppliers and small retail customers.
- (2) If on a review of a complaint, or at any other time, the supplier determines that the customer has been charged more than the amount that should have been charged under the contract, and the amount overcharged exceeds \$25, the supplier must:
 - (a) inform the customer not later than 10 business days after becoming aware of the overcharging, and
 - (b) reimburse any overcharged amount paid by the customer in accordance with the customer's instructions or, if no instructions are given, credit the amount to the customer in the next bill issued to the customer, and
 - (c) (Repealed)
 - (d) pay interest on any overcharged amount paid by the customer at the rate prescribed under section 101 of the *Civil Procedure Act 2005* for payment of interest on a judgment debt.
- (3) If the amount overcharged and paid by the customer does not exceed \$25, the supplier must:
 - (a) credit the amount to the customer in the next bill issued to the customer, and
 - (b) credit interest on any overcharged amount paid by the customer at the rate prescribed under section 95 (1) of the *Supreme Court Act 1970* for payment of interest on a judgment debt.

28 Provision of information about bills and related matters

- (1) This clause applies to the following customer contracts:
 - (a) standard form customer supply contracts,
 - (b) negotiated customer supply contracts between suppliers and small retail customers.

- (2) The supplier must, if requested to do so by the customer, supply the following information to the customer within a reasonable time of receiving the request:
 - (a) information about the current status of a customer's bill or account,
 - (b) information about meter readings and meter registrations connected with a bill.
- (3) The supplier must provide the information free of charge but may charge the customer for the reasonable costs of collecting and releasing information that relates to meter registration on a half-hourly basis.

29 Billing period for customer supply contracts with small retail customers

- (1) A bill must be issued by a supplier to a small retail customer under a customer supply contract at least once every 3 months.
- (2) In the case of a negotiated customer supply contract, a small retail customer and the supplier may agree that a bill may be issued at different intervals.

30 Payment of bills for electricity supply by small retail customers

- (1) The date for payment on any bill issued for the first time by a supplier under a customer supply contract with a small retail customer must be not less than 12 business days after the date on which it is sent out to the customer.
- (2) A supplier must accept payment by a small retail customer of an amount owing to the supplier by any of the following payment methods:
 - (a) by cash, cheque or credit card at an office or agent of the supplier,
 - (b) by post by means of cheque or credit card,
 - (c) by telephone by credit card,
 - (d) by direct debit from a cheque, savings or credit card account,
 - (e) by any other method agreed with the supplier.
- (3) The supplier may not impose any charge in connection with, or resulting from, a method of payment used by the customer and listed in subclause (2) (a)–(d).
- (4) Despite subclauses (2) and (3), a supplier and a small retail customer may agree under a negotiated customer supply contract as to the method or methods of payment of amounts owing to the supplier and any charges applicable to the method or methods.

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- (5) If requested by a small retail customer, the supplier must accept payment in advance for the supply of electricity or any other services or other charges under a customer supply contract.

31 Matters related to electricity consumption to be included in bill

- (1) The information to be included in a bill issued by the supplier under a standard form customer supply contract must include the following:
- (a) the particulars of meter readings for the period,
 - (b) the estimated or measured quantity of electricity supplied in kilowatt hours,
 - (c) particulars of any retail tariff codes and rates of charges applicable to the supply of electricity of each category supplied,
 - (d) particulars of the quantity of electricity of each category supplied during the billing period or estimated to have been supplied during the period,
 - (e) particulars of the average daily consumption of all electricity supplied during the billing period in respect of that bill (expressed in kilowatt hours),
 - (f) if a bill was rendered by the same supplier for the corresponding billing period during the previous year, particulars of the average daily consumption during that previous billing period.
- (2) The information to be included in a bill issued by a supplier under a negotiated customer supply contract with a small retail customer must include the information set out in subclause (1) (b)–(f) if charges for the supply of electricity under the contract are based on the customer's electricity consumption.

32 How payments to be applied

If a licence holder supplies other goods or services in addition to the provision of connection services or the supply of electricity to a small retail customer under a customer contract, the licence holder must apply any payments received from the customer firstly towards payment of electricity related charges (that is, customer connection services and electricity supply services), unless otherwise directed by the customer.

33 Provision of historical billing information

- (1) A supplier must, if requested to do so by a small retail customer or former small retail customer, give to the customer copies of, or information about, previous bills issued by the supplier to the customer within a reasonable time of receiving the request.

- (2) The supplier must provide the copies free of charge but may charge the small retail customer for the reasonable costs of obtaining and supplying copies of a bill if:
 - (a) the billing period occurred more than 2 years before the request, or
 - (b) copies or information has been provided under this clause within the previous 12 months.
- (3) The supplier may provide copies of bills, or billing information, to a person other than the small retail customer, only if the customer consents in writing to the provision of the bills or billing information to the other person.
- (4) For the avoidance of doubt, this clause does not prevent a supplier from providing consumption information for the purposes of customer registration, customer transfer and wholesale settlement of payments in the national electricity market or for any other purpose that the supplier is legally required to do so.

34 Meter testing

- (1) If a supplier determines that a bill or amount is correct on a review of a bill requested by a small retail customer, the customer has a right to request that the meter be tested in accordance with any applicable laws, market operations rules, codes or standards.
- (2) The supplier may request that the small retail customer pay in advance the reasonable cost of testing the meter. The supplier is not required to test the meter if the small retail customer refuses to pay the amount in advance.
- (3) If the meter is found to be inaccurate the supplier must refund any amount paid in advance and the customer is not liable to pay the cost of testing if the meter is found to be inaccurate.

35 Calculation of charges if increase in rates of charges occurs

- (1) If a bill is issued for a billing period under a customer supply contract with a small retail customer in which there is an increase in the rates of charges for electricity supplied, the charge for electricity supplied during the period is to be calculated using the following methodology, or an equivalent methodology:
 - (a) the electricity supplied for the whole period is to be charged for at the rate applicable at the end of the period, and
 - (b) for each variation that occurred during that period, an adjustment component (calculated for that part of the period occurring prior to the variation) is to be deducted from the charge so calculated.

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- (2) For this purpose, the adjustment component is to be calculated in accordance with the following formula:

$$A = \frac{d(N - C)}{n}$$

where:

A is the adjustment component.

d is the number of days in the billing period during which electricity was supplied:

- (i) in the case of the first or only variation, before the variation took effect, or
- (ii) in the case of a second or subsequent variation, after the previous variation took effect and before the second or subsequent variation took effect.

n is the number of days in the billing period during which electricity was supplied.

N is the amount of the charge for the whole of the billing period, calculated at the rate applicable at the end of the period.

C is the amount of the charge for the whole of the billing period, calculated:

- (i) in the case of the first or only variation, at the rate applicable immediately before the variation took effect, or
- (ii) in the case of a second or subsequent variation, at the rate applicable immediately before the second or subsequent variation took effect.

- (3) (Repealed)

36 Estimation of electricity supplied

- (1) If a supplier under a customer supply contract with a small retail customer finds:
- (a) that metering equipment has ceased to register or has ceased to register correctly the quantity of or demand for electricity supplied, or
 - (b) that electricity has been supplied without passing through metering equipment,
- the supplier must estimate the quantity of or demand for electricity supplied for any period of up to 6 months before the meter was last read.
- (2) If electricity is supplied under any such contract during a period, or part of a period, for which there is no meter reading, the supplier must estimate the quantity of or demand for electricity supplied for the period or part of the period.

- (3) A small retail customer is liable to pay for, or is entitled to be paid a rebate for, the electricity estimated under this clause.
- (4) The metering equipment is to be regarded as not registering correctly if (and only if) its error in registration is greater than 2%, either in excess or deficiency.
- (5) The estimated bill is to be based on the small retail customer's historical meter data or, if the supplier does not have that data, the average daily consumption for the same class of customer supplied by the supplier, calculated for the period covered by the bill.
- (6) Interest is not payable in a case involving the supply of electricity where overcharging is discovered by the supplier when reconciling charges made on the basis of estimation under this clause with actual electricity consumption.
- (7) This clause does not apply to a negotiated customer supply contract if charges for the supply of electricity under the contract are not based on the customer's electricity consumption.

37 No access to meter

- (1) If a supplier under a customer supply contract with a small retail customer, or a person on behalf of the supplier, is unable to obtain access to metering equipment for the purpose of determining the quantity of electricity supplied, the supplier must ask the customer to elect:
 - (a) to pay an amount estimated in accordance with this Division and to have that amount reconciled in the next bill, or
 - (b) to pay an amount based on a determination by the supplier after obtaining access to the metering equipment.
- (2) Nothing in this clause prevents the supplier and the customer from agreeing that the customer is to pay an amount based on information provided by the customer as to the amount registered by the meter in respect of that period.
- (3) This clause does not apply to a negotiated customer supply contract if charges for the supply of electricity under the contract are not based on the customer's electricity consumption.

Part 4 Customer contracts

Division 1 Requirements for customer contracts

38 Effect of Part

This Part does not limit any other provision (not inconsistent with the Act or this Regulation) that may be contained in a customer contract or prevent the inclusion in a contract of any other matter that may be included in a contract under the Act.

39 Notice of standard form customer contracts and amendments

- (1) For the purposes of sections 21 (2) (b) and 39 (5) (b) of the Act, a notice of the terms of a standard form customer contract published in a newspaper must include the following particulars:
 - (a) that the standard form customer contract is a new contract,
 - (b) whether the standard form customer contract applies to new customers only, or whether it applies to existing customers,
 - (c) a summary of the scope, intent and general effect of the standard form customer contract,
 - (d) a summary of any relevant guaranteed customer service standards.
- (2) For the purposes of sections 21 (2) (b), 22, 39 (5) (b) and 42 of the Act, a notice of the terms of an amendment to a standard form customer contract published in a newspaper must include the following particulars:
 - (a) a description of the existing standard form customer contract to which the amendment relates,
 - (b) whether the amendment applies to new customers only, or whether it applies to existing customers under the relevant standard form customer contract,
 - (c) a summary of the scope, intent and general effect of the amendment,
 - (d) if the amendment gives effect to a variation of the guaranteed customer service standards, a summary of those standards, as varied.
- (3) For the purposes of section 21 (1), 22, 39 (5) and 42 of the Act, an amendment to a standard form customer contract that arises from an amendment to a document referred to in that contract that is issued by Standards Australia, or is a recognised document, and that is expressed to be in force from time to time, takes effect on the date on which the amendment to the document is published by Standards Australia, or by

the Director-General, or on such other date as that amendment is expressed to commence at the time of publication.

40 Requirements for customer contracts

- (1) This clause is made under, and for the purposes of, sections 20 (1) (a), (b), (c) and (g), 38A (4) and (5), 40 (1) (a), (b), (c), (g) and (h) and 191 (1) (c) and (c2) of the Act.
- (2) The following contracts must comply with the requirements of Schedule 1:
 - (a) standard form customer contracts,
 - (b) negotiated customer contracts between a licence holder and a small retail customer.
- (3) In addition to the matters referred to in subclause (2), customer supply contracts between a supplier and a small retail customer must comply with the applicable requirements of Schedule 2.
- (4) In addition to the matters referred to in subclause (2), the following contracts must comply with the applicable requirements of Schedule 3:
 - (a) standard form customer connection contracts,
 - (b) negotiated customer connection contracts between a service provider and a small retail customer.
- (5) Variations of a minor nature may be made to the requirements set out in Schedule 1, 2 or 3 where necessary to enable the provisions to be more readily understood within the context of the contract, without affecting the substance of the provisions.

41 Additional matters relating to guaranteed customer service standards

- (1) The guaranteed customer service standards:
 - (a) are to be set out in a section of the relevant contract under the heading “Guaranteed Customer Service Standards” and are required to be in or to the effect of the form of the requirements set out in Part 2 of Schedule 2 and Part 2 of Schedule 3, and
 - (b) are to include a statement to the effect that they comply with the requirements imposed under the Act with respect to customer service.
- (2) If the guaranteed customer service standards applicable under the contract are varied under Division 2, the provisions of Part 2 of Schedule 2 and Part 2 of Schedule 3 are taken to be varied in accordance with any variation of those standards under that Division.

42 Information to be provided to small retail customers about contracts

- (1) It is a condition of a licence holder's licence that, as soon as practicable after receiving a request by or on behalf of a small retail customer to do so, the licence holder must provide the customer with the following documents:
 - (a) a copy of the contract and any documents incorporated by reference in the contract,
 - (b) a copy of any document referred to in the contract that is not incorporated in the contract,
 - (c) a copy of the Act and this Regulation.
- (2) It is a condition of a licence that a licence holder who enters a negotiated customer contract with a small retail customer must provide the customer, within 2 business days of the contract being entered into, with a copy of the contract and a disclosure notice.
- (2A) For the purposes of this clause, a *disclosure notice* is a document containing the following information in relation to the contract:
 - (a) the name and contact details of the supplier,
 - (b) the name and contact details of a person responsible for arranging connection services on behalf of the customer (if any),
 - (c) the premises to be supplied with electricity,
 - (d) the commencement date and term of the contract,
 - (e) the extent to which the price offered is inclusive of all costs, and if the price offered is not inclusive of all costs, the particulars of the costs not included,
 - (f) the customer's right to enter into any applicable standard form customer contract, and the availability of pricing information published by the Tribunal in accordance with section 181A of the Act,
 - (g) a statement of the customer's rights under this Regulation in relation to the cooling-off period,
 - (h) any requirement for a deposit to be paid by the customer and when that deposit is payable,
 - (i) any penalties or charges imposed on the customer for any change including, but not limited to, any variation in electricity load or early termination,
 - (j) a statement of the customer's rights in relation to disputes and resolution of disputes with the supplier, including the procedures for referring complaints and disputes to the electricity industry ombudsman.

- (3) It is a condition of a licence of a supplier that, if the supplier arranges connection services on behalf of a small retail customer, the supplier must, as soon as practicable after receiving a request by or on behalf of the customer to do so, provide the customer with the following documents:
- (a) a copy of the relevant customer connection contract and any documents incorporated by reference in the contract,
 - (b) a copy of any document referred to in the contract that is not incorporated in the contract.
- (4) The licence holder must provide the first copy of any contract and the documents incorporated in the contract free of charge but may charge a reasonable fee for providing the documents referred to in the contract and not incorporated in the contract and any subsequent copies of any documents provided under this clause.
- (5) In this clause:
business day means a day that is not a Saturday, Sunday or public holiday throughout the State.

43 Availability of contract documents

- (1) It is a condition of a licence holder's licence that the licence holder make the following documents available for inspection, free of charge, at its offices during office hours:
- (a) if the licence holder is a standard retail supplier, copies of its standard form customer supply contracts and the document referred to in clause 13,
 - (b) if the licence holder is a supplier, copies of any standard form customer connection contracts used by service providers providing connection services to customers of the supplier,
 - (c) if the licence holder is a service provider, copies of its standard form customer connection contracts,
 - (d) a copy of any document incorporated by reference in a contract referred to in this clause and any document referred to in any such contract that is not incorporated in the contract.
- (2) It is a condition of a standard supplier's licence that the supplier make the following documents available through the internet:
- (a) a copy of its standard form customer supply contract and any documents incorporated by reference in the contract,
 - (b) a copy of any document referred to in the contract that is not incorporated in the contract,
 - (c) a copy of the Act and this Regulation.

Division 2 Variation of guaranteed customer service standards**44 Variation of guaranteed customer service standards**

- (1) At the request of a licence holder, the Minister may, subject to this Division, vary the guaranteed customer service standards:
 - (a) in relation to all customer contracts issued by the licence holder to which the standards apply, or
 - (b) in relation to a specified class of customer contracts issued by the licence holder to which the standards apply, or
 - (c) in relation to all customer contracts issued by the licence holder to which the standards apply other than a specified class of customer contract issued by the licence holder.
- (2) If a guaranteed customer service standard is varied, the customer contracts concerned must be amended so as to accord with the variation.
- (3) Within 3 months after it amends the customer contracts concerned so as to accord with a variation under this clause, a licence holder must cause notice of the text of those standards, as varied, to be given to each customer.

45 Notice of request to vary guaranteed customer service standards

- (1) Before making a request to the Minister for the variation of any guaranteed customer service standard, the licence holder:
 - (a) must seek directions from the Minister as to which persons or organisations it should consult with in connection with the proposed request, and
 - (b) must consult with:
 - (i) the persons and organisations identified in the directions referred to in paragraph (a), and
 - (ii) any relevant customer consultative group, and
 - (iii) if the matter is one covered by an approved electricity industry ombudsman scheme, the electricity industry ombudsman, and
 - (c) must cause notice of its proposed request to be published in at least one daily newspaper circulating generally in the area in which its customer's premises are situated, and
 - (d) must conduct a public meeting, no earlier than 2 weeks after the date of publication of the notice referred to in paragraph (c), for the purpose of:

- (i) informing members of the public of the proposed request, and
 - (ii) allowing members of the public to express their views in connection with the proposed request, and
 - (e) must allow at least 2 weeks from the date of the public meeting for members of the public to make written submissions to the licence holder in connection with the proposed request.
- (2) The notice referred to in subclause (1) (c):
 - (a) must state that the licence holder proposes to request that the guaranteed customer service standard concerned be varied, and
 - (b) must contain particulars of the proposed variation, and
 - (c) must state that a public meeting will be held, at a date, time and place to be specified in the notice, for the purpose of:
 - (i) informing members of the public of the proposed request, and
 - (ii) allowing members of the public to express their views in connection with the proposed request, and
 - (d) must state that members of the public are invited to submit written submissions to the licence holder in connection with the proposed request, and
 - (e) must indicate the address to which, and the date by which, any such submissions should be delivered to the licence holder.
- (3) When making the request, the licence holder must furnish the Minister with:
 - (a) evidence that the requirements of this clause have been complied with, and
 - (b) an assessment of the effect on its customers of the proposed variation of the guaranteed customer service standard (including, in particular, the financial effect of the proposed variation) assuming that the request is approved, and
 - (c) any submissions received by the licence holder as a result of the action taken by it under this clause, and
 - (d) an assessment of all such submissions, and
 - (e) evidence that the guaranteed customer service standards that will be applicable to the licence holder if the request is granted will be comparable with the minimum standards applicable to:
 - (i) similar organisations in other fully competitive electricity organisations, or

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- (ii) in the absence of other fully competitive electricity organisations, other public utility industries generally.

Division 3 Renewable energy sources—licence condition for suppliers

45A Definitions

In this Division:

accreditation scheme means a renewable energy sources accreditation scheme referred to in clause 45D.

accredited renewable energy source means an energy source accredited under an approved accreditation scheme.

approved means approved by the Minister under clause 45D.

new or moving customer of a supplier means a small retail customer who owns or occupies residential premises and who enters into a new customer supply contract in respect of the premises with the supplier (whether or not the supplier was the customer's existing supplier).

potential new or moving customer or **potential customer** of a supplier means a person to whom the supplier offers to supply electricity and who would, if the offer is accepted, be a new or moving customer.

renewable energy sources term of a customer supply contract means a term of the contract under which the customer agrees to be supplied with electricity on the basis of a renewable energy sources offer referred to in clause 45B.

45B Licence condition regarding accredited renewable energy sources

- (1) It is a condition of the licence of a supplier who supplies or offers to supply electricity to residential premises that the supplier must:
 - (a) make an offer to each potential new or moving customer of the supplier to the effect that the equivalent of a minimum of 10 per cent of the electricity supplied to the potential customer will be obtained from accredited renewable energy sources (this offer being referred to in this Division as a **renewable energy sources offer**), and
 - (b) ensure that each renewable energy sources offer:
 - (i) includes a statement as to whether the contract under which the electricity is to be supplied is a standard form customer supply contract or a negotiated customer supply contract, and
 - (ii) includes a statement of the tariffs and charges on the basis of which electricity from accredited renewable energy sources will be supplied under a renewable energy sources

term in the contract if the potential customer accepts the offer, and

- (c) be a member of, and comply with the requirements of, an approved accreditation scheme.
- (2) The Minister may exempt a supplier from the requirements of subclause (1) (c) for any period in respect of which the supplier satisfies the Minister that it is not practicable for the supplier to be a member of an approved accreditation scheme for reasons that are beyond the control of the supplier.
- (3) The licence condition referred to in subclause (1) is not applicable to a supplier in respect of any period during which there is no approved accreditation scheme of which the supplier can be a member.

45C Ancillary provisions

The following provisions of this Division are ancillary provisions relating to the licence condition referred to in clause 45B.

45D Renewable energy sources accreditation schemes

- (1) The Minister may approve one or more renewable energy sources accreditation schemes of which suppliers may be members for the purpose of supplying electricity from accredited renewable energy sources.
- (2) An accreditation scheme may be established specifically for the purposes of this Division or may form part of or be embodied in another scheme established for other purposes.
- (3) Without limiting the provisions that may be included in an accreditation scheme, an accreditation scheme may contain provisions regarding:
 - (a) the administration of the scheme, and
 - (b) eligibility for obtaining and retaining membership of the scheme, and
 - (c) the accreditation of renewable energy sources for the supply of electricity by suppliers, and
 - (d) the participation of suppliers in the scheme, and
 - (e) the making of renewable energy sources offers, and
 - (f) the supply of electricity by suppliers from accredited renewable energy sources.
- (4) An approval by the Minister may be unconditional or subject to conditions attached by the Minister, whether at the time of approval or afterwards.

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- (5) The Minister may revoke or vary an approval.

45E Ancillary provisions relating to renewable energy sources offers and terms

(1) **Application of clause**

This clause applies in relation to the renewable energy sources offer made in relation to an offer made by a supplier to supply electricity to a potential new or moving customer.

(2) **Simultaneous offers to supply electricity under standard and negotiated contracts**

If the supplier makes an offer to supply electricity to the potential customer on the basis of a standard form customer supply contract and at the same time makes an offer to supply electricity to the potential customer on the basis of a negotiated customer supply contract, only one of the offers need include the renewable energy sources offer. This subclause has effect despite clause 45B (1) (a).

(3) **Revocation of acceptance—standard form customer supply contract**

If a customer who accepted the renewable energy sources offer is being supplied with electricity under a standard form customer supply contract:

- (a) the customer may revoke the acceptance, and
- (b) the renewable energy sources term applicable to the customer ceases to have effect at a time determined by the supplier but no later than 5 business days after the supplier is notified of the revocation.

(4) **Revocation of acceptance—negotiated customer supply contract**

If a customer who accepted the renewable energy sources offer is being supplied with electricity under a negotiated customer supply contract, the customer may revoke the acceptance, but only if the contract provides for revocation and any applicable terms and conditions of the contract regarding a termination fee or penalty are satisfied.

(5) **Definition of “business day”**

In this clause:

business day means a day that is not a Saturday, Sunday or public holiday.

45F Application of percentage

The percentage (or range of percentages) that is the subject of a renewable energy sources offer and the percentage that is the subject of

a renewable energy sources term may be calculated and applied either (at the choice of the supplier):

- (a) as the equivalent percentage of the customer's electricity usage over a billing period, or
- (b) in some other manner permitted under the approved accreditation scheme of which the supplier is a member.

Part 5 Review of decisions

46 Decisions for which review may be sought by small retail customer

For the purposes of section 96 (1) of the Act, a small retail customer may apply to a supplier for a review in relation to a matter arising out of the conduct of a supplier acting in the capacity of an electricity marketer or of an agent of the supplier who is an electricity marketer.

47 Application for review

- (1) An application by a small retail customer for a review of a decision of a licence holder for which a review may be sought under section 96 of the Act must be made in accordance with this clause.
- (2) A written application must:
 - (a) be served on the supplier not later than 28 days after the person receives written notice of the decision, and
 - (b) state the reasons why the small retail customer is seeking the review.
- (3) An oral application must be made not later than 28 days after the person receives written notice of the decision.

48 Review of decisions by licence holder

- (1) On receiving an application by a small retail customer for a review of a decision for which a review may be sought under section 96 of the Act, the licence holder must review its decision and make a determination under this clause.
- (2) After reviewing its decision, the licence holder:
 - (a) may determine that the decision is to stand, or
 - (b) may vary or revoke the decision.
- (3) As soon as practicable after it makes its decision, the licence holder must give written notice to the small retail customer:
 - (a) of its determination, together with its reasons for the determination, and
 - (b) if the determination is to vary the decision, of the manner in which the decision is to be varied, and
 - (c) of the rights available to the customer under the Act and this Regulation.
- (4) A licence holder that fails to give such a notice within 14 days after the application is made is taken to have determined:

- (a) that its decision is to stand (in the case of a complaint against a decision),
- (b) that no action is to be taken (in the case of any other complaint).

49 Manner of handling application

In dealing with an application for a review of a decision under this Part, the licence holder must comply with Australian Standard AS 4269-1995 titled "Complaints handling".

Part 6 Electricity industry ombudsman schemes

50 Persons who may apply to electricity industry ombudsman

- (1) For the purposes of section 96A (1) of the Act, the following persons may apply to an electricity industry ombudsman under an approved electricity industry ombudsman scheme for a review of a decision:
 - (a) any person, in respect of a decision to classify the person as being or not being a small retail customer, or a small retail customer entitled to standard supply,
 - (b) a tenant of residential premises who is supplied with electricity by a landlord as referred to in section 72 (3) of the Act, in respect of a decision of the landlord relating to the supply of electricity or the provision of connection services,
 - (c) a person to whom connection services are provided, or electricity is supplied, under an arrangement exempted from a provision of the Act under clause 66 or 68 (other than clause 68 (2) (e) or (f)) and who occupies residential premises and whose electricity consumption is measured by a separate meter, in respect of any dispute or complaint under the electricity supply arrangement concerned,
 - (d) a person who is or may be a small retail customer who is subject to a new occupant supply arrangement or an exempt last resort arrangement, in respect of any dispute or complaint under the electricity supply arrangement concerned,
 - (e) a person who is or was a small retail customer in respect of a decision of the supplier under a previous customer supply contract between the customer and the supplier, if that matter arose not more than 12 months before the application was made,
 - (f) a person who is or was a small retail customer in respect of a decision of the service provider under a previous customer connection contract between the customer and the service provider, if that matter arose not more than 12 months before the application was made.
- (2) For the purposes of section 96A (3) of the Act, a review of a decision on an application made by a person referred to in subclause (1) is to be free of charge to the person.

51 Additional matters that may be covered by electricity industry ombudsman schemes

For the purposes of section 96B (1) (c) of the Act, an electricity industry ombudsman scheme may deal with any of the following:

- (a) a dispute or complaint about a decision for which review may be sought under clause 46 or 50,
- (b) a dispute between a small retail customer and a distribution network service provider or a retail supplier arising out of the solar bonus scheme (being the scheme for the payment of electricity supplied to the network by small retail customers using complying generators).

52 Objectives of electricity industry ombudsman schemes

For the purposes of section 96B (2) (d) of the Act, the persons who may seek a review referred to in clause 46 or 50 are prescribed as customers to whom the electricity industry ombudsman is to be accessible.

53 Reports by electricity industry ombudsman

- (1) The electricity industry ombudsman:
 - (a) must cause copies of all public reports issued by the electricity industry ombudsman to be given to the Minister, and
 - (b) must cause notice to be given to the Minister of changes in the policies and procedures to be adopted in connection with the relevant approved electricity industry ombudsman scheme.
- (2) Without limiting subclause (1), the Minister may from time to time require the electricity industry ombudsman appointed under an approved electricity industry ombudsman scheme to provide the Minister with reports on the operation of the scheme, including:
 - (a) particulars as to the extent to which the scheme is meeting the objectives referred to in section 96B of the Act, and
 - (b) particulars as to the extent to which the scheme has met relevant best practice benchmarks, and
 - (c) particulars as to the extent to which licence holders or specified licence holders and other persons bound by the scheme have complied with their obligations under the scheme.

54 Offences

- (1) An electricity marketer must not fail to comply with a decision of an electricity industry ombudsman under an approved electricity industry ombudsman scheme as to a dispute between the marketer and a small retail customer.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).
- (2) A landlord (as referred to in section 72 of the Act) must not fail to comply with a decision of an electricity industry ombudsman under an

approved electricity industry ombudsman scheme as to a dispute between the landlord and a tenant who is entitled under this Regulation to apply to the ombudsman in relation to that dispute.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

- (3) A person who is exempted from a provision of the Act under clause 66 or 68 must not fail to comply with a decision of an electricity industry ombudsman under an approved electricity industry ombudsman scheme as to a dispute between the exempted person and a person who is entitled under this Regulation to apply to the ombudsman in relation to that dispute.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

55 Existing approved electricity industry ombudsman schemes

- (1) The approved electricity industry ombudsman scheme that was in force immediately before 1 January 2001 is taken to be a scheme approved under section 96B of the Act, as inserted by the *Electricity Supply Amendment Act 2000*.
- (2) The scheme referred to in subclause (1) may deal with any disputes referred to in section 96B (1) of the Act as so amended.
- (3) This clause ceases to have effect 3 months after the commencement of this Regulation.

Part 7 Retailers of last resort

Division 1 Preliminary

56 Definitions

In this Part:

customer includes a person supplied with electricity under an exempt last resort supply arrangement or a new occupant supply arrangement.

transferred customer means a customer who is being supplied with electricity by, and who is or is to be transferred to, a retailer of last resort under this Part.

last resort supply event means an event referred to in clause 59.

Division 2 Endorsements of retailers of last resort

57 Conditions of endorsement as retailer of last resort

For the purposes of section 33A (3) of the Act, a retailer of last resort's endorsement consists of:

- (a) a condition that designates the holder of the licence as a retailer of last resort in respect of any one or more of the following:
 - (i) a supply district or part of a supply district as referred to in section 33C of the Act, or any other area specified by the Minister in the licence,
 - (ii) a category of customer,
 - (iii) the customers or specified customers of one or more retail suppliers, and
- (b) a condition that the retailer must comply with the obligations of a retailer of last resort set out in this Part and any applicable market operations rules, and
- (c) a condition that the endorsement has effect for a period of 2 years or such other period as the Minister specifies, and
- (d) a condition that any last resort supply fee charged to a customer by the retailer be calculated in the manner approved by the Minister, and
- (e) (Repealed)

58 Last resort supply arrangements

- (1) A retailer of last resort must prepare and maintain a plan setting out the arrangements to be implemented by it in the event that it is required to supply electricity in its capacity as a retailer of last resort.

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- (2) The plan must provide for the following matters:
 - (a) the arrangements that are to apply to small retail customers subject to standard form customer supply contracts, small retail customers subject to negotiated supply contracts and other customers,
 - (b) the maintenance of the capacity to implement last resort supply arrangements,
 - (c) the charges for the supply of electricity, and any additional charges permitted under this Regulation, for customers subject to last resort supply arrangements, and the manner in which the charges are to be calculated,
 - (d) provision for the notification to customers subject to last resort supply arrangements of their right to obtain supply from another retail supplier,
 - (e) provision of information to customers subject to last resort supply arrangements about the terms and conditions that are to apply to the supply of electricity under the arrangements,
 - (f) the implementation of last resort supply arrangements,
 - (g) any other matters required by the Minister.
 - (3) The plan must be approved by the Minister and comply with any applicable provisions of this Regulation and the market operations rules.

Division 3 Operation of last resort supply

59 Commencement of last resort supply arrangements

- (1) A retailer of last resort's obligations under its endorsement with respect to the implementation of last resort supply arrangements for customers for whom it is a retailer of last resort take effect if a last resort supply event occurs with respect to the supplier of those customers.
- (2) The following events are last resort supply events:
 - (a) if a suspension notice is issued by NEMMCO to a supplier under the *National Electricity Code*,
 - (b) if a supplier's licence is cancelled and written notice of the cancellation is given to the supplier.
- (3) On a last resort supply event occurring, the retailer of last resort must ensure that the customers for whom it is a retailer of last resort are transferred as customers of the retailer, if the transfer does not occur by any other means. A transfer must comply with the retailer's last resort

supply arrangements, the Act, this Regulation and any applicable market operations rules.

- (4) On a last resort supply event occurring, the retailer of last resort must implement the last resort supply arrangements applicable to the customers subject to the arrangements.

60 Last resort supply notice

- (1) If a last resort supply event occurs, the Minister must publish a notice in the Gazette that last resort supply arrangements have come into force and setting out particulars of the affected suppliers and customers.
- (2) If a last resort supply event occurs, the Minister must give notice of the matters referred to in subclause (1) to all suppliers, service providers, NEMMCO and NECA.

61 Notice to customers

- (1) A retailer of last resort must, as soon as practicable after the commencement of its obligation to provide last resort supply arrangements, give written notice to each customer who is subject to those arrangements of the following matters:
 - (a) the commencement of last resort supply arrangements,
 - (b) the terms and conditions on which electricity is to be supplied,
 - (c) that the customer may arrange supply under a customer supply contract with the retailer of last resort or another supplier,
 - (d) whether or not the customer is entitled to elect to take supply from a standard retail supplier under a standard form supply contract and, if the customer is so entitled and the supplier is not the relevant standard retail supplier, the name and contact details of that supplier,
 - (e) the date on or after which the retailer of last resort may discontinue supply to the premises of the customer,
 - (f) any charges that the customer may be liable to pay if the customer does not enter into a customer supply contract.
- (1A) The notice is to contain, in community languages (including Arabic, Cantonese, Vietnamese, Italian, Greek and Spanish, and any other language approved by the supplier after consultation with any relevant customer consultative group), information about the availability of interpreter services for the languages concerned and telephone numbers for the services.
- (2) A retailer of last resort must, as soon as practicable after the commencement of its obligation to provide last resort supply

arrangements, cause to be published in a newspaper circulating generally in this State a notice containing the following matters:

- (a) a statement that last resort supply arrangements have come into force for customers or classes of customers specified in the notice,
- (b) contact details for the retailer of last resort.

62 Terms and conditions applying to small retail customers

- (1) A retailer of last resort, who is also a standard retail supplier, must supply a transferred customer who is a small retail customer whose premises are located in the supplier's supply district with electricity under the standard form supply contract.
- (2) A retailer of last resort, who is also a standard retail supplier, must supply a transferred customer who is a small retail customer whose premises are not located in the supplier's supply district with electricity under the standard form supply contract that is applicable to the supply district in which the premises are located.
- (3) A retailer of last resort who is not a standard retail supplier must supply a transferred customer who is a small retail customer with electricity on the same terms and conditions as apply to small retail customers under the standard form supply contract that is applicable to the supply district in which the customer's premises are located.
- (4) A small retail customer transferred to a retailer of last resort is taken:
 - (a) to have elected to be transferred under an electricity supply arrangement on the terms and conditions set out in this clause, and
 - (b) if the retailer of last resort is a standard retail supplier, to have made an election under section 34 (8) of the Act, in accordance with this Regulation, being an election that took effect on the transfer date.
- (5) A retailer of last resort may require a transferred customer to pay a last resort supply fee not exceeding \$50.

Note. Under section 33B (4) of the Act, the Minister may vary the supply district of a standard retail supplier.

63 Terms and conditions applying to non-small retail customers

- (1) A retailer of last resort and a transferred customer who is not a small retail customer may agree as to the terms and conditions of the supply of electricity under the last resort supply arrangements.

- (2) If there is no such agreement, the retailer of last resort must supply electricity to the premises of a transferred customer who is not a small retail customer at a price that does not exceed:
- (a) the total of the pool price plus a margin of 10 per cent or \$20 per MWh of electricity (whichever is the lesser) and any additional charges specified in the last resort supply arrangement (being network charges, costs of network losses, NEMMCO charges, charges relating to metering services or other charges approved by the Minister), or
 - (b) the published charges for the supply of electricity to customers, being charges applying generally to the supply of electricity to such customers other than small retail customers at the date that the last resort supply arrangements come into effect,
- whichever is the greater.

(3) (Repealed)

(4) In this clause:

pool price means the spot price at the local regional reference node under the *National Electricity Code*.

published charges means the charges published in a newspaper circulating generally in this State.

64 Commencement of discontinuance procedures by retailer of last resort

- (1) A retailer of last resort is authorised to discontinue the supply of electricity under an exempt last resort arrangement only if a period of three months has elapsed since the commencement of the last resort supply arrangements or if the person who owns or occupies the premises:
- (a) has failed to provide any security required by the retailer for the payment of any charge, or
 - (b) has failed to pay an amount due to the retailer with respect to the supply of electricity or connection services arranged by the retailer, or
 - (c) has refused or failed to give an authorised officer access to any premises supplied with electricity by the retailer in accordance with any right to access provided for in the Act or this Regulation, or
 - (d) has obstructed the authorised person in relation to any act, matter or thing done or to be done in carrying out any function under the Act or this Regulation.

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- (2) A retailer of last resort must not discontinue the supply of electricity to premises on a ground referred to in subclause (1) (a)–(d) unless the retailer has:
- (a) in the case of premises owned or occupied by a small retail customer, complied with the requirements of the terms and conditions applicable to the supply of electricity under the last resort supply arrangements and this Regulation, or
 - (b) in any other case, given the person reasonable notice of its intention to discontinue supply to the premises to allow the customer a reasonable opportunity to remedy that ground.
- (3) A retailer of last resort must not discontinue the supply of electricity to premises on the ground that a period of three months has elapsed since the commencement of the last resort supply arrangements unless the retailer has given the customer reasonable notice of its intention to discontinue supply to the premises to allow the customer a reasonable opportunity to enter into a customer supply contract.
- (4) Nothing in this clause affects the right to interrupt continuous supply as agreed in a customer supply contract.
- (5) Nothing in this clause affects any right or obligation to refuse to supply, or to discontinue supply, arising from the operation of the *Electricity Supply (Safety and Network Management) Regulation 2002* or *Electricity (Consumer Safety) Act 2004*.

65 Market operations rules

Market operations rules may be made for or with respect to the following matters:

- (a) disclosure of information about customers transferred from a supplier to a retailer of last resort by the supplier whose customers are transferred,
- (b) implementation of last resort supply arrangements or preparation of proposed last resort supply arrangements by a supplier in the capacity of a retailer of last resort,
- (c) the rights and obligations of licence holders with respect to other licence holders as to matters relating to or arising out of last resort supply arrangements,
- (d) obligations with respect to the provision of metering services when last resort supply arrangements take effect.

Part 8 Exemptions relating to service providers and supply arrangements

66 Exemptions from sec 13

- (1) The object of this clause is to exempt certain persons from a provision of the Act that prohibits the operation of distribution systems for retail trading in electricity otherwise than by licensed service providers.
- (2) Any person who owns or controls a distribution system (other than TransGrid or a service provider listed in Schedule 3 to the Act) is exempt from the operation of section 13 of the Act.

Note. Clause 69 exempts the Lord Howe Island Board from the operation of section 13 of the Act.

67 Exemptions from sec 16

- (1) The object of this clause is to exempt certain matters from a provision of the Act that prohibits the operation of distribution systems for retail trading in electricity otherwise than for licensed suppliers.
- (2) The operation of a distribution system by a licensed service provider, for the purpose only of conveying electricity in accordance with an electricity supply arrangement for which an exemption under clause 68 is in force, is exempt from the operation of section 16 of the Act.

68 Exemptions from sec 179

- (1) The object of this clause is to exempt certain electricity supply arrangements from a provision of the Act that renders an electricity supply arrangement unenforceable unless the arrangement was authorised by a licence when it was entered into.
- (2) The following electricity supply arrangements are exempt from the operation of section 179 of the Act:
 - (a) any arrangement for the supply of electricity generated by means of one or more generating systems which together supply electricity to a transmission or distribution system (through a single connection point or through an electrically common point) at a rate of 30 megawatts or less, but only if any distribution system along which the electricity is conveyed is owned or controlled by a person who holds (or is exempt from holding) a service provider's licence,
 - (b) any arrangement under which electricity that has initially been supplied by a licensed supplier is resupplied to some other person (otherwise than in contravention of section 72 (1) of the Act),

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- (c) any arrangement under which a person buys, sells or otherwise deals with rights to the supply of electricity arising under an arrangement referred to in paragraph (b),
 - (d) any arrangement under which a landlord supplies electricity to a tenant as referred to in section 72 (3) of the Act,
 - (e) any arrangement taken to have been entered into under subclause (3),
 - (f) an arrangement under which electricity is supplied to a person by a retailer of last resort, but only if the electricity is supplied in accordance with Part 7 and the applicable last resort supply arrangements,
 - (g) an arrangement under which electricity is supplied by Ergon Energy Queensland Pty Ltd to a person in respect of premises in the Tenterfield Local Government area.
- (3) A licensed supplier, is for the purposes of this Regulation, taken to have entered into an electricity supply arrangement with a person occupying premises (not being a customer under a customer supply contract) if:
- (a) the supplier supplies electricity to the premises, and
 - (b) the premises are no longer occupied by the customer under the relevant customer supply contract applicable to those premises.
- Note.** Clauses 70, 71 and 72 contain other conditions applicable to the exemptions in this clause.
- (4) For the purposes of this Regulation, an electricity supply arrangement subject to an exemption under subclause (2) (e) or (f) is taken to have commenced on the date that electricity commenced to be supplied to the person subject to the arrangement.

69 Exemptions for Lord Howe Island Board

- (1) The Lord Howe Island Board is exempt from the operation of sections 13, 15A and 34A of the Act.
- (2) The conditions imposed on a licence by the following sections of the Act apply as conditions of this exemption in the same way as they apply as conditions of a licence:
 - (a) section 15 (Right to connection to local distribution system for all customers),
 - (b) section 18 (Distribution network service providers to connect premises under customer connection contracts),
 - (d) section 34 (Right to supply of electricity from standard retail supplier for all customers),
 - (c) section 35 (Discrimination prohibited),

- (d) section 38 (Retail suppliers to supply electricity under customer supply contracts).
- (3) Any electricity supply arrangement under which the Lord Howe Island Board supplies electricity to any other person is exempt from the operation of section 179 of the Act.

69A Exemptions for ActewAGL

- (1) ActewAGL is exempt from the operation of sections 15A and 34A of the Act.
- (2) The terms of any electricity supply arrangement (including any feed-in tariff arrangement) that is entered into by ActewAGL with a customer in New South Wales must comply with the *Utilities Act 2000* and the *Electricity Feed-in (Renewable Energy Premium) Act 2008* of the Australian Capital Territory as if the customer were in the Australian Capital Territory.
- (3) In this clause:
ActewAGL means ActewAGL Distribution.

70 Conditions applying to exemptions in relation to residential premises

- (1) The exemption of a person (the *exempt person*) from a provision of the Act under clause 66 or 68 (other than clause 68 (2) (e), (f) or (g)) is subject to the conditions set out in this clause if the person in respect of whom the connection services are provided, or electricity is supplied, occupies residential premises and the person's electricity consumption is measured by a separate electricity meter.
- (2) The following conditions apply:
 - (a) the exempt person must provide connection services, or supply electricity, to the premises in accordance with any agreement relating to occupation of the premises between the exempt person and the person to whom the electricity is supplied,
 - (b) the maximum amount that may be charged for the supply of electricity during a particular period is the amount that the standard retail supplier in whose supply district the premises are located would have charged under a standard form customer supply contract for that supply during that period,
 - (c) the exempt person is bound by, and must comply with, any decision of the electricity industry ombudsman in relation to a complaint or dispute relating to the provision of connection services or the supply of electricity by the exempt person, as referred to in clause 50 (1) (c).

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- (3) The condition in subclause (2) (b) does not apply to a landlord referred to in section 72 (3) of the Act.

Note. The maximum allowable amount that may be charged by a landlord referred to in section 72 (3) of the Act is provided for in section 72 (6) of the Act.

71 Conditions on exemptions for certain residential premises relating to disconnection from distribution system

- (1) The exemption of a person (the *exempt person*) from a provision of the Act under clause 66 or 68 (other than clause 68 (2) (e), (f) or (g)) is subject to the condition that the exempt person comply with this clause, if the person in respect of whom the connection services are provided, or electricity is supplied, occupies residential premises and the person's electricity consumption is measured by a separate electricity meter.
- (2) An exempt person may not disconnect premises from the person's distribution system or discontinue the supply of electricity to the occupier of premises:
- (a) while any application made by the occupier of the premises for assistance under:
 - (i) any Government funded rebate or relief scheme, or
 - (ii) any payment plan operated by the exempt person, is pending, or
 - (b) while any life support system that relies on electricity for its operation is in use at the premises.
- (3) In the event that the exempt person becomes authorised (under an agreement with the person in respect of whom the connection services are provided, or electricity is supplied) to disconnect premises from a distribution system or to discontinue the supply of electricity, the exempt person must not do so:
- (a) on a Friday, Saturday or Sunday, or
 - (b) on a public holiday or day immediately preceding a public holiday, or
 - (c) after 3.00 pm on any other day.
- (4) The exempt person must not take action to disconnect premises from the exempt person's distribution system or discontinue supply unless the exempt person has given at least 14 days written notice of the exempt person's intention to do so.
- (5) The notice:
- (a) must specify the grounds on which the exempt person is taking the action proposed, and

- (b) must indicate the date on or after which the supply to the customer's premises may be disconnected or discontinued if those grounds are not removed, being a date occurring not earlier than 14 days after the notice is sent, and
 - (c) must advise the customer of the customer's rights under subclause (2).
- (6) An exempt person must, if the grounds on which the supply was disconnected or discontinued are remedied by the occupier of the premises concerned, reconnect premises or resume supply of electricity to premises within a reasonable time.
- (7) An exempt person must, on receiving notice that the exempt person's premises are to be disconnected from the distribution system, immediately give written notice of the disconnection to any person to whom the exempt person provides connection services or supplies electricity under an electricity supply arrangement and who will be affected by the disconnection.
- (8) Nothing in this clause affects any right or obligation to disconnect premises arising from the operation of the *Electricity Supply (Safety and Network Management) Regulation 2002* or *Electricity (Consumer Safety) Act 2004*.

72 Conditions for exemptions relating to new occupants of premises

- (1) The exemption of a person (the ***exempt person***) from a provision of the Act under clause 68 (2) (e) is subject to the condition that the exempt person must comply with this clause.
- (2) An exempt person is authorised to discontinue the supply of electricity only if one month has elapsed since the commencement of the electricity supply arrangement or if the person to whom electricity is supplied under the arrangement (the ***new occupant***):
 - (a) has failed to provide any security required by the exempt person for the payment of any charge with respect to the supply of electricity or connection services arranged by the supplier, or
 - (b) has failed to pay an amount due to the exempt person with respect to the supply of electricity or connection services arranged by the supplier, or
 - (c) has refused or failed to give an authorised officer access to any premises supplied with electricity by the exempt person in accordance with any right to access provided for in the Act, or
 - (d) has obstructed the authorised person in relation to any act, matter or thing done or to be done in carrying out any function under the Act or this Regulation.

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- (3) An exempt person must not discontinue the supply of electricity to premises on a ground referred to in subclause (2) (a)–(d) unless the exempt person has given the new occupant reasonable notice of its intention to discontinue supply to the premises to allow the new occupant a reasonable opportunity to remedy that ground.
 - (4) An exempt person must not discontinue the supply of electricity to premises on the ground that one month has elapsed since the commencement of the electricity supply arrangement unless the exempt person has given the new occupant notice under clause 11 and has also given the new occupant a reasonable opportunity to enter into a customer supply contract.
 - (5) An exempt person who becomes aware that electricity is being supplied to a person other than a customer must supply electricity under an electricity supply arrangement at the lowest of the following:
 - (a) the charges that applied in respect of electricity supplied to the premises immediately before the commencement of the arrangement,
 - (b) any applicable published charges in force immediately before that commencement or, if there are no published charges in force, the amount that the standard retail supplier in whose supply district the premises are located would have charged under a standard form customer supply contract for that supply during that period.
 - (6) Nothing in this clause affects the right to interrupt continuous supply as agreed in the electricity supply arrangement.
 - (7) Nothing in this clause affects any right or obligation to refuse to supply, or to discontinue supply, arising from the operation of the *Electricity Supply (Safety and Network Management) Regulation 2002* or *Electricity (Consumer Safety) Act 2004*.
 - (8) In this clause:

published charges means the charges published in a newspaper circulating generally in this State, being charges applying generally to the supply of electricity to small retail customers.

73 Offence

A person who fails to comply with a condition of an exemption applying to the person under this Part is guilty of an offence.

Maximum penalty: 100 penalty units (in the case of a corporation) or 25 penalty units (in any other case).

Part 8A Greenhouse gas benchmarks

Division 1 General

73A Greenhouse gases

For the purposes of the definition of *greenhouse gas* in section 97AB of the Act, sulphur hexafluoride is prescribed as a greenhouse gas.

Division 2 Benchmark participants

73B Electricity generators prescribed as benchmark participants

- (1) Macquarie Generation is prescribed as an electricity generator for the purposes of section 97BB (1) (b) of the Act in respect of its supply of electricity to the Tomago Aluminium Company Pty Ltd.
- (2) Delta Electricity is prescribed as an electricity generator for the purposes of section 97BB (1) (b) of the Act in respect of its supply of electricity, under electricity supply arrangements of a class referred to in clause 18 of Schedule 6 to the Act, to:
 - (a) BlueScope Steel (AIS) Pty Ltd (ACN 000 019 625), and
 - (b) BHP Billiton Limited (ACN 004 028 077).

73BA Circumstances in which person is taken to be a large customer

- (1) For the purposes of section 97BB (2) (d) of the Act, a customer or a related entity of a customer is taken to be a large customer if:
 - (a) the amounts of electricity required to be used for the purposes of the definition of *large customer* in section 97AB of the Act, as measured from the point of consumption, are used by the customer or the related entity of a customer (whether on the customer's or related entity's own account or together with one or more other such customers as are related entities) in the year preceding the making of the election to be an elective participant, or
 - (b) the Tribunal is satisfied that the customer or related entity (as the case may require) is likely to use the required amounts of electricity in the year in which the election is to have effect (whether the customer or related entity is likely to do so on its own account or together with one or more other such customers as are related entities).
- (2) For the purposes of section 97BB (2) (d) of the Act, a customer or a related entity of a customer is taken to be a large customer who uses electricity at more than one site in this State if:

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- (a) subsection (1) applies to the customer or related entity (as the case may require), and
 - (b) each site is owned or occupied:
 - (i) by either the customer or one of the other customers referred to in subclause (1) (a) and (b), or
 - (ii) by the related entity,as the case may require.
 - (3) In this clause, *related entity of a customer* means a related entity referred to in paragraph (b) of the definition of *large customer* in section 97AB of the Act.
 - (4) (Repealed)

73BB Elections to become benchmark participants

- (1) An election by a person to become an elective participant is to be made in the form and manner approved by the Tribunal and is to specify the period (being 1 year or a specified number of years) for which the election is to have effect.
- (2) An election must identify any retail supplier or electricity generator who is to supply the electricity load or the part of the load covered by the election.
- (3) An election must be made not later than 30 June in the year preceding the year in which the election is to have effect or on any later day approved by the Tribunal.
- (4) Despite subclause (3), an election to be a benchmark participant in respect of the year commencing 1 January 2003 may be made not later than 1 April 2003 or any later day approved by the Tribunal.

73BC Elections by large customers

- (1) A person who makes an election to become an elective participant as a large customer must, before or when making the election, provide evidence to the Tribunal that the person is a customer, or a related entity of a customer, that used or is likely to use 100 gigawatt hours or more of electricity at a single site, or at more than one site (at least one of which used or is likely to use 50 gigawatt hours or more), in this State, as referred to in clause 73BA (2) (whether on its own account or together with one or more other such customers as are related entities).
- (1A) The evidence referred to in subclause (1) includes evidence of who used, or is likely to use, the electricity to be included in the election.

- (2) The Tribunal may require a person who makes an election referred to in this clause to provide specified information and documents for the purposes of providing the evidence required by this clause.
- (2A) A person must not make an election to become an elective participant as a large customer for a period in respect of the whole or part of a site if the site, or the relevant part of the site, is the subject of an election by another person for the same period.
- (3) A person may make an election to become an elective participant as a large customer in respect of part of a customer's electricity load (whether or not it is part of a load related to a single site or more than one site, and whether or not it includes the load, or part of the load, of one or more such customers as are related entities of the person) if that part meets the requirements under the Act and this Regulation for the classification of the person as a large customer.
- (3A) In this clause, *related entity of a customer* means a related entity referred to in paragraph (b) of the definition of *large customer* in section 97AB of the Act.
- (4) (Repealed)

73BD Duration of election to be elective participant

- (1) An election to be an elective participant has no effect unless it is accepted by the Tribunal.
- (1A) If only part of an electricity load is covered by an election, the Tribunal must not accept the election unless it is satisfied that the part will be separately metered at the commencement of the period in respect of which the election is made.
- (2) The Tribunal must, as soon as practicable after accepting an election, give written notice of the acceptance to:
 - (a) the person who made the election, and
 - (b) any retail supplier or electricity generator that is to supply the electricity load or the part of the load covered by the election.
- (3) An election to be an elective participant that is accepted by the Tribunal has effect, subject to this clause, for the period specified in the notice of acceptance.
- (4) An election by a large customer to be an elective participant ceases to have effect at the end of a year in which the Tribunal gives the large customer written notice of cancellation or the large customer notifies the Tribunal of its intention not to continue as an elective participant.

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- (5) An elective participant who does not wish to continue to be an elective participant in the succeeding year must notify the Tribunal not later than 30 June in the preceding year.
 - (6) Notice for the purpose of subclause (5) must be given in the form and manner approved by the Tribunal.

73BE Tribunal may cancel election

- (1) The Tribunal may cancel an election by an elective participant that has made an election as a large customer if it is satisfied, or reasonably suspects, that the elective participant was not eligible to make the election or does not meet the requirements for making an election as a large customer.
- (2) In considering whether to take action under subclause (1), the Tribunal is not required to consider any reduction in the consumption or anticipated consumption of electricity by an elective participant that is due to abatement measures carried out for the purposes of the Act, this Regulation or the greenhouse gas benchmark rules.

73BEA Joint ventures

The circumstances when a person is taken to be engaged in a joint venture with a customer or a related entity of a customer are where the person is a party to a written contract or agreement with that customer or that related entity of a customer, under which they are or will be:

- (a) undertaking a task, project or commercial venture either jointly, in common or in partnership (whether incorporated or not), and
- (b) doing so with a view to sharing in the profits or benefits generated from that task, project or commercial venture.

73BEB Electricity purchases

For the purposes of applying section 97BD (2) (a) of the Act, and any rules made under section 97K (1) (c) of the Act, an elective participant:

- (a) that is a large customer, and
- (b) that is not the purchaser of the whole or part of the electricity that qualifies it (either in its own right or as a related entity of a customer) as a large customer,

is taken to be the purchaser of all the electricity that applies to the election that qualifies it to become an elective participant.

73BF Payment of greenhouse penalty when election ceases to have effect

If an election by an elective participant ceases to have effect and a further election is not made by the participant or is refused by the Tribunal:

- (a) any greenhouse penalty payable in respect of the election period, and any greenhouse penalty payable for greenhouse shortfall carried forward from the previous compliance period, is to be assessed and paid at the end of that period as if the election were still in force, and
- (b) a greenhouse shortfall may not be carried forward if so provided by the greenhouse gas benchmark rules.

Division 3 Adjustment of greenhouse penalty

73C CPI adjustment to greenhouse penalty

- (1) For the purposes of section 97CA (3) of the Act, the amount of the greenhouse penalty is to be adjusted, on and from 1 July in each year (commencing on 1 July 2004) by the following formula:

$$P = M \times \frac{A}{B}$$

where:

P is the amount of the adjusted penalty (rounded to the nearest 50 cents).

M is the greenhouse penalty specified for the compliance period concerned in section 97CA (2) of the Act.

A is the sum of the consumer price index numbers for each quarter of the year previous to the year commencing on 1 July when the adjustment is to be made.

B is the sum of the consumer price index numbers for each quarter of the year commencing 1 July 2005.

- (2) In this clause:
consumer price index has the same meaning as it has in section 97CA of the Act.

Division 4 Renewable energy certificates

73D Definitions

In this Division:

relevant acquisition has the same meaning as it has in the *Renewable Energy (Electricity) Act 2000* of the Commonwealth.

renewable power percentage has the same meaning as it has in the *Renewable Energy (Electricity) Act 2000* of the Commonwealth.

73DA Circumstances in which renewable energy certificates may be counted towards greenhouse gas benchmark

- (1) A renewable energy certificate may be counted towards the greenhouse gas benchmark, or to abate a greenhouse gas shortfall, for a compliance period by a benchmark participant (other than an elective participant) if the following are satisfied:
 - (a) the certificate has been surrendered by the participant under the *Renewable Energy (Electricity) Act 2000* of the Commonwealth or the Tribunal is satisfied that an offer to surrender the certificate has been made under that Act for that compliance period,
 - (b) the participant's greenhouse gas benchmark statement specifies the number of renewable energy certificates surrendered or proposed to be surrendered under that Act for that compliance period,
 - (c) the costs of, or associated with, the certificate have not been paid or reimbursed to the participant by an elective participant or otherwise passed on by the participant to an elective participant.
- (2) A renewable energy certificate may be counted towards the greenhouse gas benchmark, or to abate a greenhouse gas shortfall, for a compliance period by an elective participant if the following are satisfied:
 - (a) the certificate has been surrendered by another benchmark participant under the *Renewable Energy (Electricity) Act 2000* of the Commonwealth or the Tribunal is satisfied that an offer to surrender the certificate has been made under that Act for that compliance period,
 - (b) the elective participant's greenhouse gas benchmark statement specifies the number of renewable energy certificates proposed to be counted for that compliance period,
 - (c) the costs of, or associated with, the certificate have been paid by or reimbursed by the elective participant to another benchmark participant or have been otherwise passed on to the elective participant by another benchmark participant,
 - (d) evidence satisfactory to the Tribunal of the matters referred to in paragraph (c) has been provided to the Tribunal with the elective participant's greenhouse gas benchmark statement.

73DB Limit on number of renewable energy certificates that may be counted

- (1) The maximum number of renewable energy certificates that may be counted by a benchmark participant towards the participant's greenhouse gas benchmark in a compliance period is the number calculated in accordance with this clause.

- (2) In the case of a benchmark participant that is a market customer (other than a retail supplier), the total number of the certificates is calculated by multiplying the total amount in MWh of the participant's relevant acquisitions of electricity purchased for use in this State in the compliance period concerned by the renewable power percentage for the compliance period and rounding the result to the nearest MWh.
- (3) In the case of a benchmark participant that is a retail supplier or a participant referred to in section 97BB (1) (b) of the Act, the total number of the certificates is calculated:
 - (a) by multiplying the total amount in MWh of the participant's relevant acquisitions of electricity purchased for use in this State in the compliance period concerned by the renewable power percentage for the compliance period and rounding the result to the nearest MWh, and
 - (b) by subtracting from that amount the number of any certificates of a kind referred to in clause 73DA (2) (c) applicable to the compliance period.
- (4) In the case of an elective participant, the total number of the certificates is calculated:
 - (a) if electricity is purchased at a connection point located in a distribution network, by multiplying the total amount in MWh of electricity purchases related to the electricity load covered by the election in the compliance period concerned by the renewable power percentage for the compliance period and by the distribution loss factor applicable to the connection point and rounding the result to the nearest MWh, or
 - (b) if electricity is not so purchased, by multiplying the total amount in MWh of electricity purchases related to the electricity load covered by the election in the compliance period concerned by the renewable power percentage for the compliance period and rounding the result to the nearest MWh.
- (5) In this clause:

connection point has the same meaning as it has in the *National Electricity Code*.

distribution network has the same meaning as it has in the *National Electricity Code*.

distribution loss factor has the same meaning as it has in the *National Electricity Code*.

Division 5 Assessment of compliance with greenhouse gas benchmarks**73E Assessment of compliance with greenhouse gas benchmarks**

- (1) The assessment of the greenhouse shortfall (if any) and of liability for greenhouse penalty set out in the greenhouse gas benchmark statement of a benchmark participant is, unless another assessment is or has been made by the Tribunal, taken to be the greenhouse shortfall or the liability of the participant for greenhouse penalty for the participant for the compliance period concerned.
- (2) The assessment has effect as if it were a notice of assessment signed by the Tribunal and given to the participant on the day on which the assessment is taken to have been made.
- (3) The assessment is taken to have been made on 1 March in the following year (or on the day occurring 3 months after the termination day in the case of the final compliance period), or the day on which the greenhouse gas benchmark statement is lodged, whichever is the later.

73EA Default assessments

- (1) The Tribunal may make an assessment of the greenhouse shortfall (if any), and of the liability for greenhouse penalty, for a compliance period of a benchmark participant if the participant fails to lodge a greenhouse gas benchmark statement for the compliance period in accordance with the Act.
- (2) In making an assessment under this section, the Tribunal may:
 - (a) base its assessment on its best estimate of the participant's sale or use of electricity in this State, verified by NEMMCO where possible, and
 - (b) take into account any other matters the Tribunal considers appropriate.

73EB Amendment of assessments

- (1) The Tribunal may at any time amend any assessment of the greenhouse shortfall (if any), and of the liability for greenhouse penalty, for a compliance period of a benchmark participant by making any alterations or additions that the Tribunal thinks necessary, whether or not a greenhouse penalty has been paid for the compliance period.
- (2) If the Tribunal is of the opinion that there has been an avoidance of a greenhouse penalty, the Tribunal may:
 - (a) if of the opinion that the avoidance of the penalty is due to fraud or evasion—at any time, or

- (b) in any other case—within 1 year from the day on which the assessment is made,
amend the assessment by making the alterations or additions that the Tribunal thinks necessary to correct the assessment.
- (3) A benchmark participant may, not later than 1 year from the day on which an assessment is made, apply to the Tribunal for an amended assessment.
- (4) An application by a benchmark participant must be in writing and state the grounds on which it is made.
- (5) A benchmark participant may, for the purposes of an application under this clause or, with the consent of the Tribunal, submit details of abatement certificates sought to be surrendered, and of renewable energy certificates sought to be counted, that have not been submitted previously in respect of the compliance period concerned for consideration for the purposes of an amended assessment.
- (6) The Tribunal may take into account details submitted under subclause (5) when determining whether to amend an assessment.
- (7) A benchmark participant whose liability for a greenhouse penalty is reduced as a result of an amended assessment is entitled to a refund of any additional greenhouse penalty paid under the previous assessment.

73EC Time limits for amended assessments

- (1) An amendment that reduces a benchmark participant's liability to pay a greenhouse penalty is not effective unless it is made within 1 year from the day on which the assessment was made.
- (2) If an assessment has been amended in any particular, the Tribunal may, within 1 year from the day on which a greenhouse penalty became payable under the amended assessment, make, in or in relation to any particular, any further amendment of the assessment that, in the Tribunal's opinion, is necessary to effect any just reduction in the benchmark participant's liability under the assessment.
- (3) If an application is made by a benchmark participant for an amendment of an assessment within 1 year after a greenhouse penalty became payable under that assessment, the Tribunal may amend the assessment even though the period of 1 year has elapsed.

73ED Amended assessments generally

- (1) Nothing in this Division prevents the amendment of an assessment of the greenhouse shortfall (if any), and of the liability for greenhouse penalty, of a benchmark participant to give effect to:
 - (a) the decision on any review or appeal under the Act, or

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- (b) its amendment by reduction of any particular following the participant's objection or pending any review or appeal under the Act.
 - (2) A greenhouse penalty payable under an assessment amended under this Division is taken to be payable:
 - (a) if the amendment is wholly or partly as a result of an error by the Tribunal—on the day on which the amended assessment is made, or
 - (b) in any other case—on the day on which a greenhouse penalty became payable under the original assessment.
 - (3) An amended assessment is taken to be an assessment for the purposes of the Act and this Regulation.

73EE Notice of assessments

As soon as practicable after an assessment of the greenhouse shortfall (if any), and of the liability for greenhouse penalty, of a benchmark participant is made or amended under this Division, the Tribunal must give written notice of the assessment or amended assessment to the participant.

Part 8B Greenhouse gas abatement certificate scheme

Division 1 Definitions

73F Definitions

In this Part:

approved auditor means a person required to conduct an audit under Division 8.

carbon sequestration activity—see clause 73GA.

category A electricity generation activity—see clause 73G.

Commonwealth renewable energy scheme baseline of a power station means the 1997 eligible renewable power baseline for the power station within the meaning of section 14 of the *Renewable Energy (Electricity) Act 2000* of the Commonwealth.

demand side abatement activity—see clause 73GB.

electricity generation activity—see clause 73G.

eligible land has the meaning given by the greenhouse gas benchmark rules.

large user means an elective participant, or a market customer who is a large customer.

large user abatement activity—see clause 73GC.

mandatory greenhouse gas scheme means a mandatory scheme (whether of this State or another jurisdiction) intended to promote the reduction of greenhouse gas emissions or that has the effect of substantially reducing greenhouse gas emissions (but does not include the abatement certificate scheme under Part 8A of the Act).

ORER means the Office of the Renewable Energy Regulator within the meaning of the *Renewable Energy (Electricity) Act 2000* of the Commonwealth.

Division 2 Eligibility for accreditation

Note. This Division, together with the greenhouse gas benchmark rules, provides for eligibility for accreditation as an abatement certificate provider in respect of the following activities:

- (a) electricity generation activities (including category A electricity generation activities),
- (b) carbon sequestration activities,
- (c) demand side abatement activities,
- (d) large user abatement activities.

73G Electricity generation activities

- (1) A person is eligible for accreditation as an abatement certificate provider in respect of an activity if:

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- (a) the activity involves the generation of electricity by an existing or proposed generating system and the person is eligible for accreditation in respect of the generation of electricity by the generating system under the provisions of the greenhouse gas benchmark rules relating to generation, and
 - (b) the generating system is equipped with metering equipment approved by the Scheme Administrator or (in the case of a proposed generating system) the Scheme Administrator is satisfied that the generating system will, when the generating system is operating, be equipped with appropriate metering equipment, and
 - (c) the person has record keeping arrangements with respect to the activity approved by the Scheme Administrator or (in the case of a proposed generating system) the Scheme Administrator is satisfied that the person will, when the generating system is operating, have appropriate record keeping arrangements in respect of that activity, and
 - (d) in the case of a proposed generating system—the Scheme Administrator is satisfied that the system will operate substantially as described in the person’s application for accreditation.
- (2) A person is also eligible for accreditation as an abatement certificate provider in respect of an activity if:
- (a) the activity involves the generation of electricity by an existing or proposed generating system and the person is a retail supplier in respect of electricity generated by the generating system and purchased by the retail supplier under a power purchase agreement, and
 - (b) the power purchase agreement remains in force, and
 - (c) the person has previously claimed, or could have claimed, the electricity generation as category A under the arrangements relating to greenhouse strategies in force under the Act before the commencement of Part 8A of that Act (and referred to in the Emissions Workbook), and
 - (d) the generating system is classified as Category A under the greenhouse gas benchmark rules, and
 - (e) the person is eligible for accreditation in respect of the generation of electricity by the generating system under the greenhouse gas benchmark rules relating to generation.

Note. Category A electricity generation activities are electricity generation activities that are deemed to be assigned to a retail supplier as referred to in section 97DA (6) of the Act.

- (3) For the purposes of this Regulation:
- (a) an activity that gives rise to eligibility for accreditation under subclause (1) or (2) may be referred to as an *electricity generation activity*, and
 - (b) an activity that gives rise to eligibility for accreditation under subclause (2) may also be referred to as a *category A electricity generation activity*.
- (4) In this clause:
power purchase agreement has the meaning given by the greenhouse gas benchmark rules.

73GA Carbon sequestration activities

- (1) A person is eligible for accreditation as an abatement certificate provider in respect of an activity if:
- (a) the activity is an existing or proposed carbon sequestration activity under the greenhouse gas benchmark rules and the person is eligible for accreditation as an abatement certificate provider in respect of the activity under the provisions of the greenhouse gas benchmark rules relating to carbon sequestration, and
 - (b) the person has record keeping arrangements with respect to the activity approved by the Scheme Administrator or (in the case of a proposed carbon sequestration activity) the Scheme Administrator is satisfied that the person will, when the carbon sequestration activity is carried out, have appropriate record keeping arrangements in respect of that activity, and
 - (c) in the case of a proposed carbon sequestration activity—the Scheme Administrator is satisfied that the activity will be carried out substantially as described in the person's application for accreditation.
- (2) For the purposes of this Regulation, an activity that gives rise to eligibility for accreditation under this clause may be referred to as a *carbon sequestration activity*.

73GB Demand side abatement activities

- (1) A person is eligible for accreditation as an abatement certificate provider in respect of an activity if:
- (a) the activity is an existing or proposed demand side abatement activity under the greenhouse gas benchmark rules and the person is eligible for accreditation in respect of the activity under the provisions of the greenhouse gas benchmark rules relating to demand side abatement, and

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- (b) the person has record keeping arrangements with respect to the activity approved by the Scheme Administrator or (in the case of a proposed demand side abatement activity) the Scheme Administrator is satisfied that the person will, when the demand side abatement activity is carried out, have appropriate record keeping arrangements in respect of that activity, and
 - (c) in the case of a proposed demand side abatement activity—the Scheme Administrator is satisfied that the proposal will be undertaken substantially as described in the person’s application for accreditation.
- (2) For the purposes of this Regulation, an activity that gives rise to eligibility for accreditation under this clause may be referred to as a *demand side abatement activity*.

73GC Large user abatement activities

- (1) A person is eligible for accreditation as an abatement certificate provider in respect of an existing or proposed activity if:
- (a) the person is a large user, and
 - (b) the person is eligible for accreditation as an abatement certificate provider in respect of the activity under the provisions of the greenhouse gas benchmark rules relating to large user abatement certificates, and
 - (c) the person has record keeping arrangements with respect to the activity approved by the Scheme Administrator or (in the case of a proposed activity) the Scheme Administrator is satisfied that the person will, when the activity is carried out, have appropriate record keeping arrangements in respect of that activity, and
 - (d) in the case of a proposed activity—the Scheme Administrator is satisfied that the activity will be carried out substantially as described in the person’s application for accreditation.
- (2) For the purposes of this Regulation, an activity that gives rise to eligibility for accreditation under this clause may be referred to as a *large user abatement activity*.

Division 3 Applications for accreditation

73H Application for accreditation

- (1) An application for accreditation as an abatement certificate provider in respect of an activity:
- (a) is to be made in the form and manner approved by the Scheme Administrator, and

(b) is to be accompanied by an application fee of \$500.

Note. Section 97DB (5) of the Act allows the Scheme Administrator to charge a fee (in addition to the application fee) in respect of the investigation and determination of an application for accreditation.

- (2) An application for accreditation as an abatement certificate provider in respect of an electricity generation activity:
- (a) must disclose whether or not the applicant is accredited as an accredited power station under the *Renewable Energy (Electricity) Act 2000* of the Commonwealth in respect of the generating system that the person owns or operates, and
 - (b) if the applicant is so accredited, must be accompanied by any information or authorities (such as release forms) that the Scheme Administrator may require for the purpose of obtaining from ORER, or substantiating, information relating to the following:
 - (i) any renewable energy certificates the person has created during any period,
 - (ii) the Commonwealth renewable energy scheme baseline of the power station.
- (2A) For the purposes of section 97DB (1A) of the Act, an application may be made no later than 31 December 2012 for accreditation as an abatement certificate provider in relation to activities in relation to which an abatement certificate provider was accredited on or before 31 December 2009.
- (3) A reference in this Division to an activity includes a reference to an existing or proposed activity.

73HA Benefits under other schemes

The Scheme Administrator may require a person who applies for accreditation to give to the Scheme Administrator an undertaking, in such terms as the Scheme Administrator may require, not to claim any benefit under a mandatory greenhouse gas scheme if such an action would result in a benefit being obtained under both that scheme and the abatement certificate scheme established by Part 8A of the Act in respect of the same output or greenhouse gas abatement.

73HB Grounds for refusal of application for accreditation

- (1) The Scheme Administrator may refuse an application for accreditation as an abatement certificate provider in respect of an activity if:
- (a) the Scheme Administrator is not satisfied that the applicant is eligible for accreditation as an abatement certificate provider in respect of the activity concerned, or

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- (b) the application for accreditation is not duly made (including if it is not accompanied by any required information or the appropriate fee), or
 - (c) the applicant fails to give the Scheme Administrator an undertaking required to be given in connection with the application under this Division in terms satisfactory to the Scheme Administrator.
- (2) If the Scheme Administrator refuses an application for accreditation as an abatement certificate provider, the Scheme Administrator must advise the applicant in writing of the grounds on which the application was refused.

73HC Suspension or cancellation of accreditation

- (1) The Scheme Administrator may suspend or cancel the accreditation of a person as an abatement certificate provider in respect of an activity on any of the following grounds:
- (a) the Scheme Administrator is satisfied that the person has ceased to be eligible for accreditation as an abatement certificate provider in respect of the activity,
 - (b) the person has requested the suspension or cancellation,
 - (c) the Scheme Administrator is satisfied that the person has contravened a provision of the Act, the regulations, the greenhouse gas benchmark rules or a condition to which the accreditation is subject,
 - (d) the person has become bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his or her creditors or made an assignment of his or her remuneration for their benefit,
 - (e) the person is a corporation that is the subject of a winding up order or for which a controller or administrator has been appointed.
- (2) If the Scheme Administrator suspends or cancels the accreditation of a person, the Scheme Administrator is required to notify the person in writing of the suspension or cancellation and the grounds on which the accreditation is suspended or cancelled.
- (3) A suspension or cancellation takes effect when notice of the suspension or cancellation is served on the person by the Scheme Administrator, or on such later date as may be specified by the Scheme Administrator in the notice.

Division 4 Prescribed conditions of accreditation

73I Conditions of accreditation

For the purposes of section 97DD (1) (a) of the Act, it is a condition of the accreditation of a person as an abatement certificate provider that the person does not contravene any of the provisions of this Division.

73IA Claiming benefits under other schemes

An accredited abatement certificate provider must not contravene any undertaking, of a kind referred to in clause 73HA, given to the Scheme Administrator in connection with the person's application for accreditation.

73IB Commonwealth renewable energy scheme

- (1) An accredited abatement certificate provider in respect of an electricity generation activity must not create an abatement certificate in respect of output for which it has already created a renewable energy certificate, subject to the greenhouse gas benchmark rules.
- (2) If an accredited abatement certificate provider in respect of an electricity generation activity is accredited as an accredited power station under the *Renewable Energy (Electricity) Act 2000* of the Commonwealth in respect of the generating system used in connection with that electricity generation activity, the provider must provide to the Scheme Administrator such information, authorities (such as release forms) or other assistance that the Scheme Administrator may, by notice in writing to the person, require for the purpose of obtaining from ORER, or substantiating, information relating to the following:
 - (a) any renewable energy certificates the provider has created during any period,
 - (b) the Commonwealth renewable energy scheme baseline of the accredited power station.
- (3) If an accredited abatement certificate provider in respect of an electricity generation activity obtains, at any time after accreditation, accreditation as an accredited power station under the *Renewable Energy (Electricity) Act 2000* of the Commonwealth in respect of the generating system used in connection with that electricity generation activity, the provider must disclose that fact to the Scheme Administrator within 21 days of becoming accredited under the *Renewable Energy (Electricity) Act 2000* of the Commonwealth.

73IC Category A electricity generation activities

- (1) An accredited abatement certificate provider in respect of a category A electricity generation activity must provide such information and

assistance to the Scheme Administrator as the Scheme Administrator, by notice in writing to the accredited abatement certificate provider, may require for the purpose of estimating the Commonwealth renewable energy baseline of a power station that supplies electricity to the provider.

- (2) An accredited abatement certificate provider in respect of a category A electricity generation activity must notify the Scheme Administrator in writing of any change to the power purchase agreement (including any termination of that agreement) that gives rise to the provider's entitlement to accreditation in respect of a category A electricity generation activity within 21 days after that change occurs.

73ID Carbon sequestration activity to be maintained

An accredited abatement certificate provider who creates an abatement certificate in respect of a carbon sequestration activity must ensure the continued storage, by means of planted forests on eligible land, of the quantity of carbon dioxide stored by the activity in respect of which the certificate is created (calculated in accordance with the greenhouse gas benchmark rules) for a period of 100 years after the certificate is created.

73IE Retail suppliers of elective participants to be notified to Scheme Administrator

- (1) An accredited abatement certificate provider in respect of a large user abatement activity must notify the Scheme Administrator in writing if the provider enters into any agreement or arrangement to purchase electricity from a retail supplier that has not already been notified to the Scheme Administrator.
- (2) The notification must be given to the Scheme Administrator within 21 days after entering into the agreement or arrangement.

73IF Record keeping

- (1) An accredited abatement certificate provider in respect of an electricity generation activity must keep a record of the following:
 - (a) the amount of electricity supplied by the generating system,
 - (b) the type of fuel or fuels used by the generating system to generate electricity,
 - (c) the source of the fuel or fuels,
 - (d) the amount of each fuel used by the generating system to generate electricity.
- (2) An accredited abatement certificate provider in respect of a carbon sequestration activity must keep a record of the following:

- (a) the location and size of any eligible land owned or controlled from time to time by the person,
 - (b) any carbon sequestration rights held in respect of any other eligible land from time to time,
 - (c) any activity conducted on land referred to in subclause (2) (a) or (b) that is likely to result in a reduction in the greenhouse gas emissions abated by the planted forests on that land, including any clearing of that land.
- (3) An accredited abatement certificate provider in respect of a demand side abatement activity must keep a record of the following:
 - (a) the location in which the activity occurred,
 - (b) the abatement of greenhouse gases (calculated in accordance with the greenhouse gas benchmark rules) associated with that activity,
 - (c) the methodology, data and assumptions used to calculate that abatement,
 - (d) if the activity relates to the on-site generation of electricity, the matters referred to in subclause (1).
- (4) An accredited abatement certificate provider in respect of a large user abatement activity must keep a record of the following:
 - (a) the location in which the activity occurred,
 - (b) emissions of greenhouse gases associated with that activity,
 - (c) the abatement of greenhouse gases (calculated in accordance with the greenhouse gas benchmark rules) associated with that activity,
 - (d) the methodology, data and assumptions used to calculate that abatement.
- (5) An accredited abatement certificate provider must keep such other records as the Scheme Administrator, by notice in writing to the accredited abatement certificate provider, requires the accredited abatement certificate provider to keep.
- (6) Subclause (1) does not apply to an accredited abatement certificate provider in respect of a category A electricity generation activity, but subclause (5) applies.
- (7) A record required to be kept by a person by or under this clause must be retained by the person for at least 6 years after the record is made.
- (8) Records are to be kept in a form and manner approved by the Scheme Administrator.

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- (9) In this clause:
- carbon sequestration right*** has the meaning given by the greenhouse gas benchmark rules.
- clearing*** of land means:
- (a) cutting down, felling, thinning, logging or removing any trees on the land, or
 - (b) killing, destroying, poisoning, ringbarking, uprooting or burning trees on the land, or
 - (c) substantially damaging or injuring trees on the land in any other way.

73IG Co-operation with audits

- (1) An accredited abatement certificate provider must provide such information and assistance as is necessary to comply with any audit conducted under Division 8.
- (2) Without limiting subclause (1), an accredited abatement certificate provider must provide such access to premises as is necessary to comply with any schedule or timetable of audits agreed to by the accredited abatement certificate provider (whether before or after accreditation).

Division 5 Imposition of conditions by Scheme Administrator

73J Imposition of conditions by Scheme Administrator

- (1) If the Scheme Administrator intends to impose a condition on the accreditation of a person as an accredited abatement certificate provider under section 97DD (1) (b) of the Act (including any condition of a kind referred to in section 97DD (3) of the Act), either at the time of accreditation or any time during the period in which the accreditation remains in force, the Scheme Administrator must give notice in writing of that fact to the person on whom the condition is to be imposed.
- (2) The condition takes effect on the date on which the notice is given to the person, or a later date specified in the notice, subject to subclause (3).
- (3) In the case of a condition to be imposed at the time of accreditation, the condition does not take effect until the date on which the person is accredited as an abatement certificate provider.
- (4) The Scheme Administrator may, at any time by notice in writing given to a person, revoke or vary a condition imposed on the accreditation of the person by the Scheme Administrator.
- (5) If the Scheme Administrator imposes or varies a condition of accreditation of a person, the Scheme Administrator must advise the

person in writing of the reasons for the decision to impose or vary the condition.

73JA Financial assurances

- (1) This clause applies if the Scheme Administrator imposes a condition on the accreditation of a person as an accredited abatement certificate provider requiring the person to provide a financial assurance to the Scheme Administrator to secure or guarantee the person's compliance with any order that may be made against the person under section 97EF of the Act.
- (2) The amount of any financial assurance required by the Scheme Administrator is to be determined by the Scheme Administrator having regard to the following:
 - (a) the activities in respect of which the person is accredited or to be accredited,
 - (b) the number of abatement certificates that the person has created or is likely to create,
 - (c) the frequency of audits conducted or to be conducted in respect of the person,
 - (d) any other matters the Scheme Administrator considers relevant.
- (3) A financial assurance is to be in such form as the Scheme Administrator considers appropriate (such as a bank guarantee or bond).
- (4) A financial assurance provided to the Scheme Administrator may be claimed or realised by the Scheme Administrator only if:
 - (a) an order is made against the person under section 97EF of the Act, and
 - (b) the person who gave the financial assurance fails to comply with the order.
- (5) The Scheme Administrator must give to the person who provided the financial assurance written notice of its intention to make a claim on or realise the financial assurance (or any part of it) at least 21 days before doing so.
- (6) The maximum amount that the Scheme Administrator may claim or recover under the financial assurance is the compliance cost in respect of the person's failure to comply with the order under section 97EF of the Act.
- (7) For the purposes of this clause, the *compliance cost* in respect of a person's failure to comply with an order under section 97EF of the Act is to be determined by the Scheme Administrator by multiplying the number of certificates that the person failed to surrender in compliance

with the order by the market value of those certificates at the time that the financial assurance is claimed on or realised.

Division 6 Creation of abatement certificates

73K Form of abatement certificates

- (1) Abatement certificates are to be created in a form approved by the Scheme Administrator.
- (2) Each abatement certificate is to include the following:
 - (a) a statement of the activity in respect of which the abatement certificate is created, including any information relating to that activity that the Scheme Administrator, by notice in writing to an accredited abatement certificate provider, requires to be included in the certificate,
 - (b) the compliance period in which the activity took place,
 - (c) the name of the person who created the certificate.

73KA Determination of baseline

- (1) The Scheme Administrator may determine, in accordance with the greenhouse gas benchmark rules, a baseline for the activities of a person in respect of which an abatement certificate provider is entitled to create certificates.

Note. Baselines may be used to determine the activities in respect of which abatement certificates may be created under the greenhouse gas benchmark rules.
- (2) The baseline is to be reduced in respect of the final compliance period by dividing the baseline by 365 and then multiplying it by the number of days in the final compliance period.

73KB Activities that take place before application for accreditation

- (1) An accredited abatement certificate provider is not entitled to create an abatement certificate in respect of an activity that took place before the date on which the accredited abatement certificate provider lodged with the Scheme Administrator an application (completed to the satisfaction of, and in a form acceptable to, the Scheme Administrator) for accreditation as an abatement certificate provider.
- (2) Subclause (1) does not apply in respect of activities that take place in the year 2003 or during the period commencing on 1 January 2004 and ending on 30 June 2004.
- (3) In the year 2003, an accredited abatement certificate provider is not entitled to create an abatement certificate in respect of an activity that took place before 1 January 2003.

- (4) For avoidance of doubt, any regulations or greenhouse gas benchmark rules made under section 97EC (3) of the Act apply in respect of this clause.

Note. Section 97EC (3) of the Act allows the regulations and greenhouse gas benchmark rules to specify when an activity is considered to have taken place for the purposes of Part 8A of the Act.

73KC Registration of creation of certificate

- (1) An application for registration of the creation of an abatement certificate is to be made to the Scheme Administrator in the form and manner approved by the Scheme Administrator.
- (2) The application is to be accompanied by a fee of \$0.15 for each certificate created.
- (3) The Scheme Administrator may refuse an application for registration of the creation of an abatement certificate on any of the following grounds:
- (a) the applicant is not an accredited abatement certificate provider or the accreditation of the person as an abatement certificate provider is suspended at the time of application,
 - (b) the application for registration was not duly made (including if it is not accompanied by the appropriate fee),
 - (c) the Scheme Administrator is not satisfied that the applicant was entitled to create an abatement certificate in respect of the activity,
 - (d) the Scheme Administrator is of the opinion that the accredited abatement certificate provider who created the certificate has contravened a provision of the Act, the regulations, the greenhouse gas benchmark rules or the conditions of the provider's accreditation.
- (4) If the Scheme Administrator refuses an application for registration of the creation of an abatement certificate, the Scheme Administrator must notify the applicant in writing of the reasons for the determination.

73KD Order requiring surrender of abatement certificates

- (1) This clause applies if an order is made or is proposed to be made under section 97EF of the Act against a person who has been found guilty of an offence against section 97DD (5) of the Act, being an offence that arose as a result of the following:
- (a) the person contravening a condition referred to in clause 73IA (relating to undertakings given to the Scheme Administrator in connection with benefits under mandatory greenhouse gas schemes),

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- (b) the person contravening a condition referred to in clause 73IB (1) (relating to the creation of abatement certificates in respect of output for which a renewable energy certificate has already been created),
 - (c) the person contravening a condition referred to in clause 73ID (relating to maintenance of carbon sequestration).
- (2) For the purposes of section 97EF (4) of the Act, the number of certificates to be surrendered under the order is to be determined by the Scheme Administrator as follows:
- (a) in a case referred to in subclause (1) (a)—the number that is equivalent to the number of abatement certificates that, in the opinion of the Scheme Administrator, were created in respect of output or greenhouse gas abatement for which a benefit was obtained under a mandatory greenhouse gas scheme,
 - (b) in a case referred to in subclause (1) (b)—the number that is equivalent to the number of abatement certificates that, in the opinion of the Scheme Administrator, were created by the person in contravention of the condition referred to in subclause (1) (b),
 - (c) in a case referred to in subclause (1) (c)—the number of abatement certificates that, in the opinion of the Scheme Administrator, were created by the person in respect of carbon sequestration activities and in respect of which the person has contravened the condition referred to in subclause (1) (c).

Division 7 Transfer of certificates

73L Entitlement to create transferable abatement certificates

- (1) Transferable abatement certificates may be created in respect of the following activities:
 - (a) electricity generation activities,
 - (b) carbon sequestration activities,
 - (c) demand side abatement activities.
- (2) Any person (including a large user) who is an accredited abatement certificate provider in respect of an activity referred to in subclause (1) may create a transferable abatement certificate in respect of that activity in accordance with the Act, this Regulation and the greenhouse gas benchmark rules.

73LA Entitlement to create non-transferable abatement certificates

- (1) Non-transferable abatement certificates may be created in respect of large user abatement activities.

- (2) An accredited abatement certificate provider in respect of a large user abatement activity may create a non-transferable abatement certificate in respect of that activity in accordance with the Act, this Regulation and the greenhouse gas benchmark rules.

73LB Registration of transfers of certificates

- (1) An application for registration of the transfer of an abatement certificate is to be made to the Scheme Administrator in the form and manner approved by the Scheme Administrator.
- (2) The Scheme Administrator may refuse an application for registration of the transfer of an abatement certificate on any of the following grounds:
 - (a) the application for registration is not duly made,
 - (b) the Scheme Administrator is of the opinion that the proposed transfer of the abatement certificate contravenes the Act, the regulations or the greenhouse gas benchmark rules.

Note. If the abatement certificate is a non-transferable abatement certificate, the Scheme Administrator must refuse an application for registration of a transfer of the certificate unless the transfer is associated with the sale of the business of the transferor to the transferee or the Scheme Administrator is otherwise authorised to register the transfer. See section 97FB of the Act.

- (3) If the Scheme Administrator refuses an application for registration of the transfer of an abatement certificate, the Scheme Administrator must notify the applicant in writing of the reasons for the determination.

73LC Register of accredited abatement certificate providers

- (1) The register of accredited abatement certificate providers is to include the following information (in addition to the information specified in section 97GA of the Act):
 - (a) the activity or activities in respect of which the accredited abatement certificate provider is accredited as an abatement certificate provider,
 - (b) the total number of abatement certificates created by the accredited abatement certificate provider in respect of each of those activities and registered in the register of abatement certificates in the previous financial year,
 - (c) the States or Territories in which those activities took place,
 - (d) such other information relating to the person's accreditation as the Scheme Administrator considers appropriate.
- (2) The register of accredited abatement certificate providers is to include the following information in relation to a person whose accreditation as an abatement certificate provider is suspended or cancelled:
 - (a) the name of the person,

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- (b) the type of certificates (that is, transferable or non-transferable) the person was formerly entitled to create under the terms of the person's accreditation,
 - (c) the reason or reasons why the accreditation was suspended or cancelled,
 - (d) the date on which the accreditation was suspended or cancelled and, in the case of a suspension, the period of the suspension,
 - (e) any conditions of accreditation that continue to have effect in respect of the person.
- (3) The following information is to be made available for public inspection under section 97GA of the Act (in addition to the information referred to in section 97GA (4) of the Act):
- (a) the information referred to in subclause (1) (c),
 - (b) the information referred to in subclause (2).

Division 8 Audits of accredited abatement certificate providers

73M Audits

- (1) The Tribunal or the Scheme Administrator may at any time conduct or require audits to be conducted of accredited abatement certificate providers in relation to the following matters:
 - (a) the creation of abatement certificates,
 - (b) eligibility for accreditation,
 - (c) compliance with any conditions of accreditation.
- (2) An audit may be conducted for the purpose of:
 - (a) substantiating information provided to the Tribunal or Scheme Administrator, or
 - (b) determining whether the provider has complied with the Act, the regulations, the greenhouse gas benchmark rules or the conditions of the provider's accreditation.
- (3) In the case of an audit required by the Tribunal, the Tribunal may require the audit to be conducted by:
 - (a) a person nominated by the Tribunal, or
 - (b) a person chosen by the accredited abatement certificate provider from a panel of persons nominated by the Tribunal, or
 - (c) a person nominated by the accredited abatement certificate provider and approved by the Tribunal.

- (4) In the case of an audit required by the Scheme Administrator, the Scheme Administrator may require the audit to be conducted by:
- (a) a person nominated by the Scheme Administrator, or
 - (b) a person chosen by the accredited abatement certificate provider from a panel of persons nominated by the Scheme Administrator, or
 - (c) a person nominated by the accredited abatement certificate provider and approved by the Scheme Administrator.
- (5) An approved auditor is to conduct an audit in accordance with the directions (if any) of the Tribunal or Scheme Administrator.

73MA Impersonating approved auditor

A person must not impersonate an approved auditor.

Maximum penalty:

- (a) in the case of a corporation—250 penalty units,
- (b) in the case of an individual—100 penalty units.

Division 9 Miscellaneous

73N Reviews

For the purposes of section 97I (2) (d) of the Act, the following decisions are prescribed:

- (a) a decision of the Scheme Administrator to impose or vary a condition of accreditation of an accredited abatement certificate provider,
- (b) a decision of the Scheme Administrator to make a claim on or realise any financial assurance provided by an accredited abatement certificate provider.

Note. This clause allows the decisions referred to above to be reviewed by the Administrative Decisions Tribunal.

Part 9 Social programs for energy

74 Service providers

- (1) Any Minister (the *sponsoring Minister*) may, with the concurrence of the Treasurer, direct a service provider to take such action as the sponsoring Minister considers appropriate to facilitate the delivery of any aspect of the Government's social programs for energy within the sponsoring Minister's administrative responsibility.
- (2) The direction:
 - (a) may specify that particular services are to be provided to particular classes of persons free of charge, at specified charges or subject to specified discounts or rebates, and
 - (b) must specify the amount or a methodology by which that amount may be assessed by the sponsoring Minister as the estimated efficient cost to the service provider of complying with the direction, and
 - (c) may require the service provider to publish the direction in the manner specified in the direction, and
 - (d) must specify arrangements for the payment to the service provider of an amount equivalent to the costs assessed by the sponsoring Minister, as referred to in subclause (b), or, if the service provider disputes that assessment, the costs assessed under clause 76.
- (3) Before making a direction, the Minister must:
 - (a) consult with the service providers proposed to be made subject to the direction, and
 - (b) give the service providers written notice of the criteria on which the estimated efficient costs of complying with the direction are to be assessed.
- (4) If a direction is given to a service provider under this clause, it is a condition of the service provider's licence that the service provider must take the action required by the direction on and from the date the direction takes effect or, if the direction specifies a later date, on and from that later date.

75 Suppliers

- (1) Any Minister (the *sponsoring Minister*) may, with the concurrence of the Treasurer, direct a supplier to take such action as the sponsoring Minister considers appropriate to facilitate the implementation of any aspect of the Government's social programs for energy within the sponsoring Minister's administrative responsibility.

- (2) The direction:
- (a) may require specified classes of customers to be supplied with electricity at discounted charges or to be given rebates on the charges paid by them for the supply of electricity, and
 - (b) may require the supplier to establish and maintain facilities to ensure that Government payments that are provided to finance the supply of electricity at discounted charges are applied in accordance with the direction, and
 - (c) may require the supplier to establish and maintain trust accounts in which Government payments that are provided to finance the supply of electricity at discounted charges are to be held pending their application in accordance with the direction, and
 - (d) may require the supplier to furnish the sponsoring Minister with periodic reports as to the supplier's compliance with the direction, and
 - (e) may require the supplier to establish and maintain accounting procedures to enable such reports to be prepared, and
 - (f) must specify the amount or a methodology by which the amount may be assessed by the sponsoring Minister as the estimated efficient cost to the supplier of complying with the direction, and
 - (g) may require the supplier to publish the direction in the manner specified in the direction, and
 - (h) must specify arrangements for the payment to the supplier of an amount equivalent to the estimated efficient costs assessed by the sponsoring Minister, as referred to in subclause (f), or, if the supplier disputes that assessment, the costs assessed under clause 76.
- (3) Before making a direction, the Minister must:
- (a) consult with the suppliers proposed to be made subject to the direction, and
 - (b) give the suppliers written notice of the criteria on which the estimated efficient costs of complying with the direction are to be assessed.
- (4) If a direction is given to a supplier under this clause, it is a condition of the supplier's licence that the supplier must take the action required by the direction on and from the date the direction takes effect or, if the direction specifies a later date, on and from that later date.

76 Re-assessment of costs of compliance with direction

- (1) Any dispute between a licence holder and a sponsoring Minister by whom a direction has been given under this Part (being a dispute as to

the cost to the licence holder of complying with the direction) is to be referred to a committee constituted by one or more assessors.

- (2) The assessor or assessors to constitute such a committee are to be suitably qualified persons appointed by agreement between the licence holder and the sponsoring Minister or, if no such agreement can be reached:
 - (a) by the Minister administering the Act, or
 - (b) if the Minister administering the Act is the sponsoring Minister, by the Premier.
- (3) In determining a dispute that has been referred to it under this clause, a committee:
 - (a) must consider any representations made by the parties to the dispute, and
 - (b) must determine, on the basis of those representations and any other information available to it, the amount or a methodology by which the amount may be assessed as the efficient cost to the licence holder of complying with the direction to which the dispute relates.
- (4) A committee may conduct proceedings under this clause in such manner as it considers appropriate.
- (5) The committee's decision on a dispute binds the parties to the dispute, but does not prevent the direction to which it relates from being withdrawn.
- (6) The committee's decision as to the efficient costs is taken to be the amount of or the methodology for assessing costs for the purposes of the Minister's direction and the direction is accordingly varied from the date specified in the decision.
- (7) A committee may determine 2 or more disputes in the same proceedings if it considers that it is appropriate to do so.

77 Costs of proceedings

- (1) The costs of any proceedings under clause 76, including the costs of the committee, are to be borne by the parties in equal proportions unless the committee determines otherwise.
- (2) The committee may determine the proportion of the costs to be borne by each of the parties, having regard to the merits of the case, and, in that event, the costs are to be borne by the parties according to the committee's determination.

78 Market operations rules

Market operations rules may be made for or with respect to the administrative arrangements for delivery of social programs for energy.

Part 9A Energy savings scheme

Division 1 Interpretation

78A Definitions

- (1) In this Part:
 - approved auditor* means a person required to conduct an audit under Division 8.
 - corresponding scheme* means a scheme or arrangement with similar objectives to the energy savings scheme.
- (2) Expressions used in this Part have the same meaning as they have in Part 9 of the Act.

78B Direct suppliers of electricity

- (1) For the purposes of the definition of *direct supplier of electricity* in section 101 (2) of the Act, the following electricity generators are prescribed as direct suppliers of electricity:
 - (a) Macquarie Generation,
 - (b) Delta Electricity.
- (2) For the purposes of section 107 (2) (b) of the Act, the following are liable acquisitions:
 - (a) the supply of electricity by Macquarie Generation to the Tomago Aluminium Company Pty Ltd,
 - (b) the supply of electricity by Delta Electricity to BlueScope Steel (AIS) Pty Ltd or BHP Billiton Limited under an electricity supply arrangement to which section 179 of the Act does not apply.

Division 2 CPI adjustment to base penalty rates

78C CPI adjustment to base penalty rates

- (1) For the purposes of section 113 (5) of the Act, the base penalty rate for each year is to be adjusted in accordance with the following formula:

$$P = A \times \frac{B}{C}$$

where:

P is the amount of the adjusted base penalty rate for a year.

A is the base penalty rate for the year for which the adjustment is being made as specified in Schedule 5A to the Act.

B is the consumer price index number for the September quarter immediately preceding the year for which the adjustment is being made.

C is the consumer price index number for the March quarter of 2009.

- (2) The first year in which the base penalty rate is to be adjusted is 2010.

Division 3 Assessment of compliance of scheme participants

78D Self-assessment by scheme participants

- (1) The assessment of the liability of a scheme participant for an energy savings shortfall penalty (if any) that is provided by the scheme participant in an energy savings statement is taken, unless another assessment is or has been made by the Scheme Regulator, to be the liability of the scheme participant for an energy savings shortfall penalty for the year concerned.
- (2) The assessment has effect as if it were a notice of assessment issued by the Scheme Regulator and given to the participant on the day on which the assessment is taken to have been made.
- (3) The assessment is taken to have been made on 1 March in the year after the year to which the statement relates, or on the day on which the energy savings statement is lodged, whichever is the later.

78E Default assessments

- (1) The Scheme Regulator may make an assessment of the liability of a scheme participant for an energy savings shortfall penalty for a year if the participant fails to lodge a energy savings statement for the year in accordance with the Act.
- (2) In making an assessment under this section, the Scheme Regulator may:
 - (a) base its assessment on its best estimate of the participant's liable acquisitions, verified by the Market Operator where possible, and
 - (b) take into account any other matters the Scheme Regulator considers appropriate.

78F Amendment of assessments

- (1) The Scheme Regulator may at any time amend any assessment of the liability of a scheme participant for an energy savings shortfall penalty for a year by making any alterations or additions that the Scheme Regulator thinks necessary, whether or not an energy savings shortfall penalty has been paid for the year.
- (2) If the Scheme Regulator is of the opinion that a scheme participant's liability for an energy savings shortfall penalty has been incorrectly

assessed, the Scheme Regulator may amend the assessment by making any alterations or additions that the Scheme Regulator thinks necessary to correct the assessment.

- (3) An assessment may be amended no later than one year after the date on which the assessment is made.
- (4) The one-year time limit does not apply to:
 - (a) an amendment that, in the opinion of the Scheme Regulator, is required because of fraud or the provision of false or misleading information by a scheme participant, or
 - (b) an amendment that is made on the application of the scheme participant concerned.

78G Application for amended assessment

- (1) A scheme participant may apply to the Scheme Regulator for an amendment to an assessment of its liability for an energy savings shortfall penalty.
- (2) An application may be made no later than one year after the day on which the assessment is made.
- (3) An application by a scheme participant must be in the form approved by the Scheme Regulator and state the grounds on which the amendment is sought.
- (4) A scheme participant may, in an application under this clause, elect to surrender additional energy savings certificates for the purposes of the amended assessment.
- (5) The election is to contain details of the energy savings certificates proposed to be surrendered.
- (6) The Scheme Regulator may deal with any such election as if it had accompanied the energy savings statement to which the assessment relates.

78H Changes to liability as result of amended assessment

- (1) An energy savings shortfall penalty payable as a result of an amendment to an assessment is taken to be payable on the date that is 7 days after the date notice of the amended assessment is given to the scheme participant by the Scheme Regulator, or on the date an energy savings shortfall would have been payable under the original assessment, whichever is the later.
- (2) The Scheme Regulator may extend the period for payment of any energy savings shortfall penalty that becomes payable as a result of an amendment to an assessment.

- (3) A scheme participant whose liability for an energy savings shortfall penalty is reduced as a result of an amended assessment is entitled to a refund of any excess energy savings shortfall penalty paid under the previous assessment.
- (4) If an assessment has been amended in any particular, the Scheme Regulator may, within one year after the day on which an energy savings shortfall penalty became payable under the amended assessment, make any further amendment of the assessment that, in the Scheme Regulator's opinion, is necessary to effect any just reduction in the scheme participant's liability under the assessment.

78I Appeals

Nothing in this Division prevents the amendment of an assessment of the liability of a scheme participant for an energy savings shortfall penalty to give effect to a decision on any review or appeal under the Act.

78J Notice of assessments

As soon as practicable after an assessment of the liability of a scheme participant for an energy savings shortfall penalty is made or amended under this Division, the Scheme Regulator must give written notice of the assessment or amended assessment to the participant.

78K Maximum energy savings shortfall that may be carried forward

For the purposes of section 116 (3) of the Act, the maximum amount of an energy savings shortfall that may be carried forward to the year 2010 by a scheme participant is 50%.

Division 4 Accreditation of certificate providers

78L Eligibility for accreditation

- (1) A person is eligible for accreditation as an energy savings certificate provider in respect of an activity if:
 - (a) the activity is a recognised energy saving activity under the scheme rules and the person is eligible for accreditation in respect of the activity under the scheme rules, and
 - (b) the person has record keeping arrangements with respect to the activity approved by the Scheme Administrator or (in the case of a proposed activity) the Scheme Administrator is satisfied that the person will, when the activity is carried out, have appropriate record keeping arrangements in respect of that activity, and

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- (c) in the case of a proposed activity—the Scheme Administrator is satisfied that the proposal will be undertaken substantially as described in the person’s application for accreditation.
 - (2) A reference in this Division to an activity includes a reference to an existing or proposed activity.

78M Application for accreditation

An application for accreditation as an energy savings certificate provider in respect of an activity:

- (a) is to be made in the form and manner approved by the Scheme Administrator, and
- (b) is to be accompanied by such information relating to the activity as the Scheme Administrator requires, and
- (c) is to be accompanied by an application fee of \$500.

Note. Section 136 (5) of the Act allows the Scheme Administrator to charge a fee (in addition to the application fee) in respect of the investigation and determination of an application for accreditation.

78N Benefits under other schemes

The Scheme Administrator may require a person who applies for accreditation to give to the Scheme Administrator an undertaking, in such terms as the Scheme Administrator may require, not to claim any benefit under a corresponding scheme if such an action would result in a benefit being obtained under both that scheme and the energy savings scheme in respect of the same energy savings.

78O Grounds for refusal of application for accreditation

- (1) The Scheme Administrator may refuse an application for accreditation as an energy savings certificate provider in respect of an activity if:
 - (a) the Scheme Administrator is not satisfied that the applicant is eligible for accreditation as an energy savings certificate provider in respect of the activity concerned, or
 - (b) the application for accreditation is not duly made (including if it is not accompanied by any required information or the appropriate fee), or
 - (c) the applicant fails to give the Scheme Administrator an undertaking required to be given in connection with the application under this Division in terms satisfactory to the Scheme Administrator.
- (2) If the Scheme Administrator refuses an application for accreditation as an energy savings certificate provider, the Scheme Administrator must

advise the applicant in writing of the grounds on which the application was refused.

78P Suspension or cancellation of accreditation

- (1) The Scheme Administrator may suspend or cancel the accreditation of a person as an energy savings certificate provider in respect of an activity on any of the following grounds:
 - (a) the Scheme Administrator is satisfied that the person has ceased to be eligible for accreditation as an energy savings certificate provider in respect of the activity,
 - (b) the person has requested the suspension or cancellation,
 - (c) the Scheme Administrator is satisfied that the person has contravened a provision of the Act, the regulations, the scheme rules or a condition to which the accreditation is subject,
 - (d) the person has become bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his or her creditors or made an assignment of his or her remuneration for their benefit,
 - (e) the person is a corporation that is the subject of a winding up order or for which a controller or administrator has been appointed.
- (2) If the Scheme Administrator suspends or cancels the accreditation of a person, the Scheme Administrator is required to notify the person in writing of the suspension or cancellation and the grounds on which the accreditation is suspended or cancelled.
- (3) A suspension or cancellation takes effect when notice of the suspension or cancellation is given to the person by the Scheme Administrator, or on such later date as may be specified by the Scheme Administrator in the notice.

78Q Transfer of accreditation

An application for transfer of accreditation as an energy savings certificate provider:

- (a) is to be made in the form and manner approved by the Scheme Administrator, and
- (b) is to be accompanied by such information relating to the activity as the Scheme Administrator requires, and
- (c) is to be accompanied by an application fee of \$500.

Division 5 Prescribed conditions of accreditation**78R Conditions of accreditation**

For the purposes of section 138 (1) (a) of the Act, it is a condition of the accreditation of a person as an energy savings certificate provider that the person does not contravene any of the provisions of this Division.

78S Claiming benefits under other schemes

An accredited certificate provider must not contravene any undertaking, of a kind referred to in clause 78N, given to the Scheme Administrator in connection with the person's application for accreditation.

78T Record keeping

- (1) An accredited certificate provider in respect of a recognised energy saving activity must keep a record of the following:
 - (a) the location in which the activity occurred,
 - (b) the energy savings (calculated in accordance with the scheme rules) arising from that activity,
 - (c) the methodology, data and assumptions used to calculate those energy savings.
- (2) An accredited certificate provider must keep such other records as the Scheme Administrator, by notice in writing to the accredited certificate provider, requires the accredited certificate provider to keep.
- (3) A record required to be kept by a person by or under this clause must be retained by the person for at least 6 years after the record is made.
- (4) Records are to be kept in a form and manner approved by the Scheme Administrator.

78U Co-operation with audits

- (1) An accredited certificate provider must provide such information and assistance as is necessary to comply with any audit conducted under Division 8.
- (2) Without limiting subclause (1), an accredited certificate provider must provide such access to premises as is necessary to comply with any schedule or timetable of audits agreed to by the accredited certificate provider (whether before or after accreditation).

Division 6 Imposition of conditions by Scheme Administrator

78V Imposition of conditions by Scheme Administrator

- (1) If the Scheme Administrator intends to impose a condition on the accreditation of a person as an energy savings certificate provider under section 138 (1) (b) of the Act, either at the time of accreditation or any time during the period in which the accreditation remains in force, the Scheme Administrator must give notice in writing of that fact to the person.
- (2) The condition takes effect on the date on which the notice is given to the person, or a later date specified in the notice, subject to subclause (3).
- (3) In the case of a condition to be imposed at the time of accreditation, the condition does not take effect until the date on which the person is accredited as an energy savings certificate provider.
- (4) The Scheme Administrator may, at any time by notice in writing given to a person, revoke or vary a condition imposed on the accreditation of the person by the Scheme Administrator.
- (5) If the Scheme Administrator imposes or varies a condition of accreditation of a person, the Scheme Administrator must advise the person in writing of the reasons for the decision to impose or vary the condition.

78W Financial assurances

- (1) This clause applies if the Scheme Administrator imposes a condition on the accreditation of a person as an energy savings certificate provider requiring the person to provide a financial assurance to the Scheme Administrator to secure or guarantee the person's compliance with any order that may be made against the person under section 142 of the Act.
- (2) The amount of any financial assurance required by the Scheme Administrator is to be determined by the Scheme Administrator having regard to the following:
 - (a) the activities in respect of which the person is accredited or to be accredited,
 - (b) the number of energy savings certificates that the person has created or is likely to create,
 - (c) the frequency of audits conducted or to be conducted in respect of the person,
 - (d) any other matters the Scheme Administrator considers relevant.

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- (3) A financial assurance is to be in such form as the Scheme Administrator considers appropriate (such as a bank guarantee or bond).
 - (4) A financial assurance provided to the Scheme Administrator may be claimed or realised by the Scheme Administrator only if:
 - (a) an order is made against the person under section 142 of the Act, and
 - (b) the person who gave the financial assurance fails to comply with the order.
 - (5) The Scheme Administrator must give to the person who provided the financial assurance written notice of its intention to make a claim on or realise the financial assurance (or any part of it) at least 21 days before doing so.
 - (6) The maximum amount that the Scheme Administrator may claim or recover under the financial assurance is the compliance cost in respect of the person's failure to comply with the order under section 142 of the Act.
 - (7) For the purposes of this clause, the *compliance cost* in respect of a person's failure to comply with an order under section 142 of the Act is to be determined by the Scheme Administrator by multiplying the number of certificates that the person failed to surrender in compliance with the order by the scheme penalty rate for the year in which the financial assurance is claimed on or realised.

78X Application for variation or revocation of conditions of accreditation

An application for variation or revocation of a condition of accreditation of a person as an energy savings certificate provider imposed by the Scheme Administrator:

- (a) is to be made in the form and manner approved by the Scheme Administrator, and
- (b) is to be accompanied by such information relating to the activity as the Scheme Administrator requires.

Note. Section 139 (3) of the Act allows the Scheme Administrator to charge a fee in respect of the investigation and determination of an application for variation or revocation of a condition of accreditation.

Division 7 Energy savings certificates

78Y Registration of creation of certificates

- (1) An application for registration of the creation of an energy savings certificate is to be made to the Scheme Administrator in the form and manner approved by the Scheme Administrator.

- (2) The application is to be accompanied by a fee of \$0.70 for each certificate created.
- (3) The Scheme Administrator may refuse an application for registration of the creation of an energy savings certificate on any of the following grounds:
 - (a) the applicant is not an accredited certificate provider or the accreditation of the person as an energy savings certificate provider is suspended at the time of application,
 - (b) the application for registration was not duly made (including if it is not accompanied by the appropriate fee),
 - (c) the Scheme Administrator is not satisfied that the applicant was entitled to create an energy savings certificate in respect of the activity,
 - (d) the Scheme Administrator is of the opinion that the accredited certificate provider who created the energy savings certificate has contravened a provision of the Act, the regulations, the scheme rules or the conditions of the accredited certificate provider's accreditation.
- (4) If the Scheme Administrator refuses an application for registration of the creation of an energy savings certificate, the Scheme Administrator must notify the applicant in writing of the determination and the reasons for the determination.

78Z Form of energy savings certificates

- (1) Energy savings certificates are to be created in a form approved by the Scheme Administrator.
- (2) Each energy savings certificate is to include the following:
 - (a) a statement of the activity in respect of which the energy savings certificate is created, including any information relating to that activity that the Scheme Administrator, by notice in writing to an accredited certificate provider, requires to be included in the certificate,
 - (b) the year in which the energy savings arising from the activity occurred,
 - (c) the name of the person who created the certificate.

78ZA Order requiring surrender of energy savings certificates

- (1) This clause applies if an order is made or is proposed to be made under section 142 of the Act against a person who has been found guilty of an offence against section 138 (3) of the Act, being an offence that arose

as a result of the person contravening a condition referred to in clause 78S.

- (2) For the purposes of section 142 (4) of the Act, the number of energy savings certificates to be surrendered under the order is the number that is equivalent to the number of energy savings certificates that, in the opinion of the Scheme Administrator, were created in respect of energy savings for which a benefit was obtained under a corresponding scheme.

78ZB Registration of transfer of certificates

- (1) An application for registration of the transfer of an energy savings certificate is to be made to the Scheme Administrator in the form and manner approved by the Scheme Administrator.
- (2) The Scheme Administrator may refuse an application for registration of the transfer of an energy savings certificate on any of the following grounds:
 - (a) the application for registration is not duly made,
 - (b) the Scheme Administrator is of the opinion that the proposed transfer of the energy savings certificate contravenes the Act, the regulations or the scheme rules.
- (3) If the Scheme Administrator refuses an application for registration of the transfer of an energy savings certificate, the Scheme Administrator must notify the applicant in writing of the reasons for the determination.

Division 8 Audits

78ZC Audits of scheme participants

- (1) The Scheme Regulator may at any time conduct or require audits to be conducted of a scheme participant in relation to the scheme participant's compliance with the energy savings scheme.
- (2) An audit may be conducted for the purpose of:
 - (a) substantiating information provided to the Scheme Regulator, or
 - (b) determining whether the scheme participant has complied with the Act, the regulations or the scheme rules.
- (3) In the case of an audit required by the Scheme Regulator, the Scheme Regulator may require the audit to be conducted by:
 - (a) a person nominated by the Scheme Regulator, or
 - (b) a person chosen by the scheme participant from a panel of persons nominated by the Scheme Regulator, or

- (c) a person nominated by the scheme participant and approved by the Scheme Regulator.
- (4) An approved auditor is to conduct an audit in accordance with the directions (if any) of the Scheme Regulator.

78ZD Audits of accredited certificate providers

- (1) The Scheme Administrator may at any time conduct or require audits to be conducted of accredited certificate providers in relation to the following matters:
 - (a) the creation of energy savings certificates,
 - (b) eligibility for accreditation,
 - (c) compliance with any conditions of accreditation.
- (2) An audit may be conducted for the purpose of:
 - (a) substantiating information provided to the Scheme Administrator, or
 - (b) determining whether the provider has complied with the Act, the regulations, the scheme rules or the conditions of the provider's accreditation.
- (3) In the case of an audit required by the Scheme Administrator, the Scheme Administrator may require the audit to be conducted by:
 - (a) a person nominated by the Scheme Administrator, or
 - (b) a person chosen by the accredited certificate provider from a panel of persons nominated by the Scheme Administrator, or
 - (c) a person nominated by the accredited certificate provider and approved by the Scheme Administrator.
- (4) An approved auditor is to conduct an audit in accordance with the directions (if any) of the Scheme Administrator.

78ZE Impersonating approved auditor

A person must not impersonate an approved auditor.

Maximum penalty:

- (a) in the case of a corporation—250 penalty units,
- (b) in the case of an individual—100 penalty units.

Division 9 Registers

78ZF Register of accredited certificate providers

- (1) The register of accredited certificate providers is to include the following information (in addition to the information specified in section 162 of the Act):
 - (a) the activity or activities in respect of which the accredited certificate provider is accredited as an energy savings certificate provider,
 - (b) the total number of energy savings certificates created by the accredited certificate provider in respect of each of those activities and registered in the register of energy savings certificates in the previous financial year,
 - (c) the States or Territories in which those activities took place,
 - (d) such other information relating to the person's accreditation as the Scheme Administrator considers appropriate.
- (2) The register of accredited certificate providers is to include the following information in relation to a person whose accreditation as an energy savings certificate provider is suspended or cancelled:
 - (a) the name of the person,
 - (b) the reason or reasons why the accreditation was suspended or cancelled,
 - (c) the date on which the accreditation was suspended or cancelled and, in the case of a suspension, the period of the suspension,
 - (d) such other information relating to the person as the Scheme Administrator considers appropriate.
- (3) The information required to be included in the register by this clause is to be made available to the public under the Act (in addition to the information referred to in section 162 (1) (a) of the Act).

Division 10 Miscellaneous

78ZG Decisions reviewable by Administrative Decisions Tribunal

For the purposes of section 171 (2) (d) of the Act, the following decisions are prescribed:

- (a) a decision of the Scheme Administrator to impose or vary a condition of the accreditation of an accredited certificate provider,

- (b) a decision of the Scheme Administrator to make a claim on or realise any financial assurance provided by an accredited certificate provider.

Note. This clause allows the decisions referred to above to be reviewed by the Administrative Decisions Tribunal.

Part 10 Accreditation of providers of contestable services

Division 1 Persons requiring accreditation

79 Persons to be accredited for the provision of services: section 31

For the purposes of section 31 of the Act, all contestable services are prescribed.

Division 2 Accreditation procedures

80 Application for accreditation

Any person may apply to an accrediting agency for accreditation to provide contestable services.

81 Grant of accreditation

An accrediting agency must not accredit a person to provide contestable services unless the accrediting agency is satisfied that the person is competent to provide the relevant contestable service, having regard to the applicable provisions of its accreditation scheme relating to the accreditation of persons to provide the service.

82 Giving of undertakings

An accrediting agency may require a person to give undertakings of the following kinds before the accrediting agency will accredit the person:

- (a) to comply with specified procedures and systems of service providers for co-ordination of the contestable service provided,
- (b) to comply with the directions of service providers in relation to work on or near service providers' distribution systems,
- (c) to indemnify service providers against any loss or damage incurred as a result of any contestable service provided by the accredited person,
- (d) to maintain a specified level of insurance at all times while accredited.

83 Rating of accredited persons

- (1) An accrediting agency may assign a rating to an accredited person on the basis of the accrediting agency's assessment of that person's work.
- (2) That rating is to be related to:
 - (a) the level of supervision required of the person providing the contestable service, and

- (b) the amount of inspection required of the provision of the contestable service by that accredited person, and
- (c) any other factors that the accrediting agency may determine.

84 Availability of lists of accredited persons

- (1) Each accrediting agency must make available to the public a list of all persons who are accredited to provide a particular contestable service.
- (2) The list must contain the names and contact details of, and any rating assigned to, such persons.
- (3) The list must be kept up-to-date.

85 Suspension of accreditation

- (1) An accrediting agency may suspend the accreditation of a person who is accredited to provide contestable services at any time on the grounds of safety. A suspension has immediate effect.
- (2) The suspension continues in force until either:
 - (a) the person's accreditation is cancelled in accordance with clause 86, or
 - (b) the suspension is lifted by the accrediting agency.

86 Cancellation of accreditation

- (1) An accrediting agency may cancel the accreditation of a person who is accredited to provide contestable services if the accrediting agency is satisfied that:
 - (a) the person is no longer competent to provide the contestable service for which the person is accredited (having regard to the results of any inspection by the accrediting agency or any audit of the accredited person's performance), or
 - (b) the person has been convicted of an offence against the Act or the *Electricity (Consumer Safety) Act 2004* or any regulations under those Acts, or
 - (c) the person was accredited on the basis of false or misleading information or a failure to disclose or provide required information, or
 - (d) the person has breached any undertaking given by the person to the accrediting agency, or
 - (e) it is necessary to do so on any other grounds relating to the safety of the work carried out or to public safety.
- (2) Before cancelling a person's accreditation, the accrediting agency:

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- (a) must cause written notice of the proposed cancellation to be given to the person, and
 - (b) must give the person a reasonable opportunity to make representations to the accrediting agency in relation to the proposed cancellation, and
 - (c) must have regard to any representations so made.
- (3) If, after having regard to any representations made by the person, the accrediting agency decides to proceed with the proposed cancellation, the accrediting agency must give to the person a written notice:
- (a) stating that the accreditation is cancelled, and
 - (b) giving reasons for the cancellation, and
 - (c) stating the date from which the cancellation takes effect.
- (4) The cancellation takes effect on the date specified in that notice.

Division 3 Preparation and approval of accreditation schemes

87 Preparation of accreditation schemes by service providers

- (1) A service provider must prepare an accreditation scheme for the accreditation, by the service provider, of persons who may provide contestable services.
- (2) An accreditation scheme must comply with the requirements of clauses 89, 90 and 91.
- (3) The service provider:
 - (a) must publish a notice in a newspaper circulating generally in the service provider's distribution district stating where the accreditation scheme can be inspected free of charge, and
 - (b) must make the accreditation scheme available to the public for inspection in the manner described in the notice.

88 Ministerially recognised accreditation schemes and accrediting agencies

- (1) The Minister may, by order published in the Gazette, declare that:
 - (a) a specified scheme is recognised as an accreditation scheme, and
 - (b) a specified person or body (other than a service provider) is recognised as an accrediting agency in relation to that scheme.
- (2) A scheme may not be recognised as an accreditation scheme unless it complies with the requirements of clauses 89, 90 and 91.

- (3) A person or body may not be recognised as an accrediting agency in relation to an accreditation scheme unless the person or body satisfies the Minister that, having regard to the provisions of this Part, the person or body has the resources and expertise to prepare and administer that scheme.
- (4) An accrediting agency that is recognised in relation to an accreditation scheme:
 - (a) must publish a notice in a newspaper circulating generally in this State stating where the scheme can be inspected free of charge, and
 - (b) must make the scheme available to the public for inspection in the manner described in the notice.

89 General requirements

An accreditation scheme must include the following matters:

- (a) the qualifications, experience and training required for accreditation, including the requirements of the accrediting agency in relation to distribution systems,
- (b) the means for ensuring adequate technical performance by an accredited person in providing the relevant services,
- (c) any commercial prudential requirements (including insurance) required of or in respect of an accredited person,
- (d) the means by which a person applying for accreditation can give evidence of his or her qualifications, experience and training and any other necessary matter,
- (e) payments required for application for, or renewal of, accreditation,
- (f) any undertakings required to be made by an accredited person,
- (g) the procedure for inspection or audit of an accredited person by the accrediting agency,
- (h) the procedure for assessment by the accrediting agency of the work of an accredited person,
- (i) a statement as to the extent to which the scheme adopts a scheme of accreditation prepared by some other accrediting agency, as authorised by clause 90 (1),
- (j) a statement as to the extent to which the scheme is operated jointly with some other accrediting agency, as authorised by clause 90 (2),
- (k) the policy for consultation with relevant stakeholders (including representative electrical contracting industry bodies) in receiving

submissions on the accreditation scheme and reviewing and developing the scheme,

- (l) such other matters as are required to be included in the scheme by any guidelines in force under clause 91.

90 Joint accreditation schemes

- (1) An accreditation scheme prepared for the purposes of this Regulation may be prepared:
- (a) by the accrediting agency preparing its own scheme of accreditation, or
 - (b) in the case of a service provider, by the service provider adopting (whether in whole or in part) a scheme of accreditation prepared by a Ministerially recognised accrediting agency, or
 - (c) in the case of a Ministerially recognised accrediting agency, by the accrediting agency adopting (whether in whole or in part) a scheme of accreditation prepared:
 - (i) by a service provider, or
 - (ii) by some other Ministerially recognised accrediting agency.
- (2) An accrediting agency's scheme of accreditation may provide for the scheme to be administered jointly:
- (a) in the case of a service provider, by the service provider and by one or more Ministerially recognised accrediting agencies, or
 - (b) in the case of a Ministerially recognised accrediting agency:
 - (i) by the agency and by one or more service providers, or
 - (ii) by the agency and by one or more other Ministerially recognised accrediting agencies, or
 - (iii) by the agency, by one or more service providers and by one or more other Ministerially recognised accrediting agencies.
- (3) If the accreditation scheme prepared for an accrediting agency (*the adopting scheme*) adopts an accreditation scheme prepared by some other accrediting agency (*the adopted scheme*), all accreditations under the adopted scheme are taken to be accreditations under the adopting scheme.

91 Ministerial guidelines

The Minister may, by order published in the Gazette, establish guidelines with respect to the matters to be included in an accrediting agency's scheme for the accreditation of persons to provide contestable services.

Division 4 Appeals

92 Definitions

In this Division:

alternative dispute resolution procedures includes negotiation, conciliation and mediation, but does not include arbitration.

appeal means an appeal under clause 94.

appellant means a person who makes an appeal.

93 Appeal against decisions regarding accreditation

- (1) A person may apply to the accrediting agency for a review:
 - (a) of a decision by an accrediting agency to refuse to accredit the person to provide a particular contestable service, or
 - (b) of a decision by an accrediting agency to suspend or cancel the person's accreditation to provide a particular contestable service, or
 - (c) of a decision by an accrediting agency not to act on a suspension.
- (2) For the purposes of subclause (1) (c), the failure by an accrediting agency:
 - (a) to cancel a person's accreditation, or
 - (b) to lift the suspension of a person's accreditation,within 28 days after it has suspended the person's accreditation is taken to be a decision by the accrediting agency not to act on the suspension.

94 Appeals against decisions of service providers

- (1) An appeal by a person against the decision of an accrediting agency as to the accreditation of the person to provide a contestable service must be made in accordance with this clause.
- (2) The appeal:
 - (a) must be in writing, and
 - (b) must be served on the accrediting agency no later than 28 days after the person receives written notice of the decision, and
 - (c) must state the reasons why the appellant considers that the decision should be reviewed.

95 Review of decision by accrediting agency

- (1) On receiving an appeal, the accrediting agency must review its decision and make a determination under this clause.
- (2) After reviewing its decision, the accrediting agency:

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- (a) may determine that the decision is to stand, or
 - (b) may determine to vary or revoke the decision.
- (3) As soon as practicable after it makes its determination, the accrediting agency must give written notice to the appellant:
- (a) of its determination, together with its reasons for the determination, and
 - (b) if the determination is to vary the decision, of the manner in which the decision is to be varied, and
 - (c) of the rights available to the appellant under this Part, and
 - (d) of the circumstances in which the appellant may become liable for costs under this Part.
- (4) An accrediting agency that fails to give such a notice within 14 days after the appeal is made is taken to have determined that its decision is to stand.

96 Request for alternative dispute resolution

- (1) An appellant who is dissatisfied with a determination of an appeal by an accrediting agency may request the appeal be dealt with by way of alternative dispute resolution procedures.
- (2) The request:
 - (a) must be in writing, and
 - (b) must be served on the accrediting agency no later than 28 days after the appellant received written notice of the determination or (if no such notice is received within 14 days after the appeal was made) within 42 days after the appeal was made, and
 - (c) must state the reasons why the appellant is dissatisfied with the determination by the accrediting agency.
- (3) As soon as practicable after receiving such a request, the accrediting agency must give written notice to the appellant:
 - (a) of the rights available to the appellant under this Part, and
 - (b) of the circumstances in which the appellant may become liable for costs under this Part.

97 Alternative dispute resolution

- (1) The accrediting agency must establish an alternative dispute resolution procedure which must:
 - (a) operate independently of the accrediting agency, and
 - (b) be kept separate from the affairs of the accrediting agency, and

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- (c) be convenient for and accessible to the appellant, and
 - (d) operate without cost to the appellant, and
 - (e) allow the appellant to choose whether to be bound by any finding or determination of the facilitator, and
 - (f) allow the facilitator to choose not to deal with the appeal, if the facilitator forms the view that:
 - (i) the appellant has been vexatious in pursuing the appeal, or
 - (ii) the appeal is an abuse of process.
- (2) The appellant may elect to use the alternative dispute resolution procedure made available by the accrediting agency under subclause (1).
- (3) If the appellant does not elect to use the alternative dispute resolution procedure made available by the accrediting agency under subclause (1), then:
- (a) the alternative dispute resolution procedure is to be as agreed by the appellant and the accrediting agency, and
 - (b) the facilitator is to be chosen jointly by the appellant and the accrediting agency, and
 - (c) participation is to be voluntary and the alternative dispute resolution procedure may be terminated at any time by either party or by the facilitator, and
 - (d) the appellant and the accrediting agency are to bear their own costs of participating in the alternative dispute resolution procedure, and
 - (e) the costs of the facilitator are to be borne by the appellant and the accrediting agency in equal proportions.

98 Arbitration

- (1) An appellant who is dissatisfied with a determination by the accrediting agency of an appeal may refer the appeal to arbitration.
- (2) Such a referral may not be made until:
- (a) the time provided for in clause 96 for a request for the appeal to be dealt with by way of alternative dispute resolution procedures has expired, or
 - (b) any alternative dispute resolution procedures commenced under clause 96 have terminated without resolution of the appeal.
- (3) That referral must:
- (a) be in writing, and

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- (b) be served on the accrediting agency, and
 - (c) state the reasons why the appellant considers that the accrediting agency's determination should be reviewed.
- (4) As soon as practicable after receiving such a referral, the accrediting agency must give written notice to the appellant:
- (a) of the rights available to the appellant under this Part, and
 - (b) of the circumstances in which the appellant may become liable for costs under this Part.
- (5) The arbitrator is to be chosen and appointed jointly by the appellant and the accrediting agency or, if an arbitrator has not been appointed within 21 days after the request for arbitration is made, by the Director-General.
- (6) In deciding an appeal, the arbitrator:
- (a) must apply any principles determined by the Minister with respect to the determination of appeals, and
 - (b) must have regard to the accrediting agency's determination of the appeal.
- (7) The arbitrator must give written notice to the parties:
- (a) of his or her decision, together with his or her reasons for the decision, and
 - (b) if the decision is to vary the accrediting agency's determination of the appeal, of the manner in which the determination is to be varied.
- (8) The arbitrator's decision on an appeal is final and binding on the parties to the appeal.
- (9) The *Commercial Arbitration Act 2010* applies to any arbitration under this clause, subject to the provisions of this clause.

99 Costs of arbitration

- (1) The costs of arbitration are to be borne by the accrediting agency unless the arbitrator determines otherwise.
- (2) The arbitrator may determine the proportion of the costs to be borne by each of the parties, having regard to the merits of the case and, in that event, the costs are to be borne by the parties according to the arbitrator's determination.

Part 11 Tree preservation

100 Object and application of Part

- (1) The object of this Part is to regulate the removal and trimming of trees by service providers so as to minimise damage to or destruction of trees growing under or near powerlines.
- (2) This Part applies only to the extent to which a service provider may lawfully remove or trim trees apart from this Part (which it may do, for example, on behalf of a council) and does not itself authorise the removal or trimming of trees.

101 Definitions

In this Part:

powerlines includes structures and equipment used for or in connection with the supply of electricity by a service provider.

tree means a tree taller than 3 metres, or having a canopy more than 3 metres in maximum diameter or having a trunk with a circumference at a height of 1 metre from the ground of more than 0.3 metres.

tree management plan means a tree management plan referred to in clause 103.

102 Preservation of trees

- (1) A service provider must not remove any tree, or trim any tree in a way that substantially damages the tree, unless:
 - (a) it is of the opinion that it is necessary to do so to protect its powerlines or the safety of persons or property under or near its powerlines, and
 - (b) it has considered alternative methods and is of the opinion that none of those methods are feasible in the circumstances (including economically feasible), and
 - (c) the service provider is acting in accordance with a tree management plan.
- (2) Alternative methods include, but are not limited to, the use of aerial bundled cables, the controlled trimming of trees and the appropriate location or relocation of powerlines (including placing them underground).

103 Tree management plans

- (1) A service provider may establish a tree management plan for the trimming, or for the staged removal and replacement, of those species of trees that have a propensity to interfere with powerlines.

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- (2) A tree management plan may contain (but need not be limited to) the following matters:
- (a) lists of suitable species of trees for planting under or near powerlines in different localities or situations,
 - (b) plans for trimming or removing and replacing existing trees and for controlling future planting of suitable species of trees,
 - (c) trimming or removing trees in an emergency,
 - (d) methods for trimming trees,
 - (e) the use of accredited contractors for trimming trees,
 - (f) the intended allocation of costs between the service provider and the relevant council or councils for the district in which the plan is to operate,
 - (g) the environmental factors to be considered in trimming trees,
 - (h) the development of public education and publicity programs encouraging the selection of appropriate species of trees for planting under or near powerlines.
- (3) A tree management plan may make different provision with respect to public land, private land, urban land and rural land.
- (4) A tree management plan may be amended by a subsequent tree management plan.

104 Consultation with councils and the public

A tree management plan is to be prepared in a way that gives an opportunity to comment on the proposed plan to the relevant council or councils for the district in which it is to operate, to the residents of the district and to local community groups.

Part 11A Infrastructure protection

104A Definitions

- (1) In this Part:
- development consent** means:
- (a) a development consent under Part 4 of the *Environmental Planning and Assessment Act 1979*, or
 - (b) an approval under Part 3A or Part 5.1 of that Act.
- notifiable excavation work** means excavation work to which section 63Z of the Act applies (as set out in clause 104B).
- power lines information** means information provided by the designated information provider or a network operator in response to a request by a person under section 63Z (1) of the Act.
- utility service** means a water, gas, electricity, sewerage, drainage or telecommunications service.
- (2) Words and expressions used in this Part have the same meaning as they have in Part 5E of the Act.

104B Excavation work requiring contact with designated information provider

- (1) Work of the following kind, that is carried out within the distribution district of a distribution network service provider, is excavation work to which section 63Z of the Act applies:
- (a) excavation for which development consent is required or that is carried out under a development consent,
 - (b) excavation that is, or is carried out in connection with, an activity within the meaning of Part 5 of the *Environmental Planning and Assessment Act 1979*,
 - (c) excavation of any land conducted by or on behalf of a public authority,
 - (d) excavation of any land on which an underground utility service is located, or proposed to be located, by or on behalf of the owner or proposed owner of the service,
 - (e) excavation of any land on which an underground utility service is located for the purpose of the repair or maintenance of works connected with the utility service.
- (2) Despite subclause (1), work of the following kind is not excavation work to which section 63Z of the Act applies:
- (a) excavation conducted with the use of machinery or powered tools to a depth of less than 150 mm,

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- (b) excavation for the purposes of ploughing, to a depth of less than 250 mm, on land within a rural zone or a rural-residential zone under an environmental planning instrument,
 - (c) excavation conducted without the use of machinery or powered tools to a depth of less than 300 mm,
 - (d) excavation conducted under a lease, licence or mineral claim under the *Mining Act 1992*,
 - (e) excavation conducted in an emergency, including (but not limited to) work to prevent or mitigate injury or death or to prevent or mitigate serious damage to property or the environment,
 - (f) excavation conducted without the use of machinery or powered tools by, or on behalf of, the owner of a utility service for the purpose of ascertaining the location of the service or testing the integrity of the service,
 - (g) excavation conducted by, or on behalf of, the owner of a utility service to stop loss of water, if urgently required in response to water main leaks and breaks.

104C Requirements for carrying out excavation work: sec 63Z (4)

(1) Notification of network operator

Subclauses (2) and (3) apply if power lines information provided to a person contains a requirement that notice of proposed notifiable excavation work must be given to the network operator that owns underground electricity power lines in the vicinity of the proposed work before the work is commenced.

(2) A person must not commence to carry out, or authorise the commencement of, the notifiable excavation work unless the person has first given notice of the proposed work to the network operator.

(3) The person must also provide to the network operator any information about the proposed work that is requested by the network operator.

(4) Recent request for information

A person who carries out notifiable excavation work must have made a request for information under section 63Z of the Act not earlier than 30 days before the work is commenced, unless a request has been made by another person in relation to that work within that period.

(5) Regard to be had to information

A person who carries out notifiable excavation work must, in carrying out that work, have regard to the following:

- (a) any information, provided by the designated information provider or a network operator, as to the location and type of any underground electricity power line in the vicinity of the work,
- (b) any other information provided to the person by a network operator or the designated information provider in respect of underground electricity power lines.

Note. A person who undertakes excavation work is subject to duties and responsibilities under the *Occupational Health and Safety Act 2000*. The WorkCover Authority has prepared the *Work Near Underground Assets Guideline*, which contains practical advice for working near underground utility services and guidance as to how to meet the requirements of the *Occupational Health and Safety Act 2000* when carrying out excavation work.

104D Provision of information by network operator

- (1) A network operator that is notified of proposed notifiable excavation work in the vicinity of underground electricity power lines owned by the network operator must ensure that the person who notifies the work, or the person proposing to carry out the work, is informed of the existence of the *Work Near Underground Assets Guideline* published in 2007 by the WorkCover Authority.
- (2) The network operator must provide a copy of that Guideline if requested to do so by the person who notifies the work or who is proposing to carry out the work.

104E Notification of damage to underground electricity power lines

A person who is required to notify a network operator under section 63ZA (1) of the Act of damage to an underground electricity power line must notify the network operator:

- (a) by telephoning the contact telephone number provided to the person by the designated information provider for that purpose, or
- (b) if no such contact telephone number is provided, by telephoning the emergency contact telephone number for the network operator that is listed in a telephone or internet directory.

104F Maximum amount of civil monetary liability

The maximum amount of civil monetary liability of a designated information provider, any officer or employee of a designated information provider or any person acting on behalf of a designated information provider for an act or omission of a kind referred to in section 63ZC (2) of the Act done or made through negligence is \$10 million.

Part 11B Solar bonus scheme

104G Additional criteria for receiving credit under solar bonus scheme

For the purposes of section 191 (1A) (k) of the Act, the additional criteria are as follows:

- (a) a credit must not be recorded in respect of a small retail customer for electricity produced by more than one generator,
- (b) a credit must not be recorded in respect of electricity produced by a generator that connects to the distribution network by way of an inverter if the inverter has a capacity of more than 10 kilowatts,
- (c) a credit must not be recorded in respect of electricity produced by a solar photovoltaic generator installed and connected after the commencement of section 15A of the Act unless the generator was installed by a person, who at the time of the installation had a Grid-connect Design & Install accreditation from the Clean Energy Council.

104H Solar bonus scheme transition day—net feed-in generators

For the purposes of the definition of *transition day* in clause 61 (5) of Schedule 6 to the Act, 1 July 2011 is prescribed but only in respect of electricity supplied to the distribution network of Integral Energy, Country Energy or EnergyAustralia by a net feed-in generator.

Note. The transition day in respect of electricity supplied to the distribution network of Country Energy or EnergyAustralia by a complying generator is 1 July 2010.

104I Form of evidence as to eligibility for higher rate

- (1) For the purposes of clause 61 (2) (c) of Schedule 6 to the Act, a person who makes an application to connect a generator to the distribution network must provide the following documents (or copies) to the Director-General (or a person or body appointed by the Director-General) on request:
 - (a) a document (such as a receipt or a copy of an application form) that proves that the application was received by the relevant distribution network service provider before 19 November 2010, and
 - (b) a document, such as a signed contract, order form, tax invoice or receipt, that proves that the small retail customer to which the application relates entered a binding agreement to purchase or lease the generator before 28 October 2010.
- (2) If the person who made the application is not the small retail customer and that person fails to produce a document when requested to do so

under subclause (1), the small retail customer must provide the document (or copy) if requested to do so.

104J Reporting and provision of information

- (1) For the purposes of section 15A (7) of the Act, a distribution network service provider must provide to the Minister and the Director-General:
 - (a) a report containing the information set out in section 15A (7) (a) and (c) of the Act as soon as practicable after the end of each reporting period, being each period of 14 days following the commencement of this clause, and
 - (b) a report containing the information set out in section 15A (7) (b) and (d) of the Act as soon as practicable after the end of each reporting period, being each period of 6 months following the commencement of this clause.
- (2) The report under subclause (1) (a) must also specify the total number of small retail customers in the distribution network service provider's distribution district who have applied to install and connect a complying generator but who have not yet connected the generator and the total generating capacity of those generators.
- (3) The information under section 15A (7) (b) of the Act is to specify the number of customers within each postcode who have installed and connected complying generators.
- (4) The information under section 15A (7) (d) of the Act is to specify the amount of electricity supplied each calendar month by complying generators.
- (5) The information in a report is to reflect the position as at the end of the relevant reporting period or calendar month as the case may be.
- (6) A distribution network service provider must also provide to the Director-General, at such times and in such form as the Director-General may request, the following information in relation to a customer who has connected, or applied to connect, a complying generator:
 - (a) the date that the application to connect the generator was received by the distribution network service provider,
 - (b) the name and address of the customer and the address where the generator is, or is to be, installed,
 - (c) the name and address of the person (if any) who made the application on behalf of the customer,
 - (d) whether the customer is a small retail customer and if so, the reason why,

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- (e) the rate per kilowatt hour recorded, or to be recorded, in respect of electricity supplied by the customer,
 - (f) the name, licence number and contact details of the person who installed, or is to install, the generator.
- (7) In this clause:
complying generator includes a generator that is taken to be a complying generator because of clause 60 of Schedule 6 to the Act.

104K Changed domestic circumstances

For the purposes of clause 61 (4) of Schedule 6 to the Act, clause 61 of that Schedule does not cease to apply in respect of a complying generator if the new person in respect of whom the credit is to be recorded for electricity produced by the generator has a domestic relationship (within the meaning of the *Crimes (Domestic and Personal Violence) Act 2007*) with the person in respect of whom the credit was previously recorded.

104L Higher rate available where generator capacity increased

- (1) For the purposes of section 15A (5) of the Act, the amount of \$0.60 per kilowatt hour is prescribed if:
 - (a) the electricity is generated by a complying generator (including a generator that is taken to be a complying generator because of clause 60 of Schedule 6 to the Act) that was first connected to the distribution network before 28 October 2010, and
 - (b) the generator had its capacity increased on or after that date using eligible components, and
 - (c) the small retail customer retains a proof of purchase document, and provides that document (or a copy), within a reasonable time, to the Director-General (or a person or body appointed by the Director-General) on request.
- (2) This clause ceases to apply in respect of a generator if the capacity of the generator is increased to more than 10 kilowatts or is increased using components other than eligible components.
- (3) This clause ceases to apply in respect of a generator (including a generator that replaces that generator) if there is a change in the person in respect of whom the credit is recorded for electricity produced by the generator unless the new person in respect of whom the credit is to be recorded has a domestic relationship (within the meaning of the *Crimes (Domestic and Personal Violence) Act 2007*) with the person in respect of whom the credit was previously recorded.

- (4) An agreement entered into by a small retail customer to purchase or lease a generator is a binding agreement for the purposes of this clause even if the agreement permits the small retail customer to terminate the agreement without penalty.
- (5) In this clause:
 - eligible components* mean components that a small retail customer had entered a binding agreement to purchase or lease before 28 October 2010.
 - proof of purchase document* means a document, such as a signed contract, order form, tax invoice or receipt, that proves that the small retail customer entered a binding agreement to purchase or lease the component before 28 October 2010.

104M Saving of rights of solar bonus scheme applicants who applied for connection to distribution network before 29 April 2011

- (1) This clause is made pursuant to section 15A (8F) of, and clause 1 of Schedule 6 to, the Act.
- (2) This clause applies to a small retail customer if:
 - (a) a notice is published under section 15A (8C) of the Act, and
 - (b) before 29 April 2011, a distribution network service provider received an application under section 15A (3) of the Act by or on behalf of the customer to have customer connection services provided so as to connect, or permit the connection of, a complying generator to the distribution network service provider's distribution network, and
 - (c) the complying generator was not connected to the distribution network before the date specified in the notice.
- (3) The small retail customer is entitled to have credits recorded under section 15A of the Act, and amounts paid under section 34A of the Act, in respect of electricity produced by the complying generator as if the generator had been connected to the distribution network before the notice was published.

Part 12 Miscellaneous

Division 1 Savings and transitional provisions

105 Definitions

In this Division:

amending Act means the *Electricity Supply Amendment Act 2000*.

former Regulation means the *Electricity Supply (General) Regulation 1996*.

interim small retail customer means a person who was an interim small retail customer immediately before the repeal of Part 10 of the former Regulation by this Regulation.

106 Interim small retail customers

- (1) Nothing in this Regulation affects a customer contract entered into, or renewed or extended, by an interim small retail customer on or after 1 January 2001 and before the commencement of this Regulation.
- (2) Any such contract is taken to comply with the Act and this Regulation if it complied with the Act and the former Regulation immediately before the commencement of this Regulation.
- (3) Despite clause 30 (2) of Schedule 6 to the Act, this clause ceases to have effect at the end of the period of supply under the contract in force immediately before the commencement of this Regulation or on 1 July 2002, whichever is the earlier.

107 Requirements for new customer contracts

- (1) A customer contract with a small retail customer that is entered into, or renewed or extended, on or after the commencement of this Regulation and not later than 3 months after that commencement, or within such later period as the Minister may determine, is taken to comply with the Act and this Regulation if it complies with the requirements applicable to a customer contract of the same kind entered into by an interim small retail customer immediately before the commencement of this Regulation.
- (2) This clause ceases to have effect at the end of the term of the contract or on 1 July 2002, whichever is the earlier.

108 Existing customer connection contracts

- (1) Nothing in the amending Act or this Regulation affects a standard form customer connection contract in force immediately before the commencement of this Regulation (not being a contract referred to in clause 106 (1)).

- (2) Any such contract is taken to comply with the Act and this Regulation if it complied with the Act and the former Regulation immediately before that date.
- (3) This clause ceases to have effect at the end of the period for which a standard form customer supply contract is taken to continue in force under clause 29 (2) of Schedule 6 to the Act.

109 Existing billing provisions apply

- (1) A licence holder is not required to comply with the provisions of Division 4 of Part 3 if the licence holder complies with the provisions applicable to bills and charges under the former Regulation, as in force immediately before the commencement of this Regulation.
- (2) This clause ceases to have effect at the end of the period for which a standard form customer supply contract is taken to continue in force under clause 29 (2) of Schedule 6 to the Act.

110 Energy distributors taken to hold licences

- (1) Each energy distributor (within the meaning of the *Energy Services Corporations Act 1995*) that was in existence at the commencement of the former Regulation, and who was taken to hold, on the commencement of this Regulation:
 - (a) a service provider's licence authorising it to operate its distribution system so as to convey electricity for or on behalf of suppliers, and
 - (b) a supplier's licence authorising it to supply electricity to retail customers,continues to be taken to hold those licences.
- (2) Schedule 2 to the Act applies to licences that are taken to be held as referred to in subclause (1) in the same way as it applies to licences granted in accordance with that Schedule.

111 (Repealed)

112 Customer consultative charters

A service provider or standard retail supplier is required to comply with clause 17 not later than 3 months after the commencement of this Regulation or within such later period as the Minister may determine.

113 Accreditation schemes

- (1) An accreditation scheme recognised under the former Regulation immediately before the commencement of this Regulation is taken to have been recognised under this Regulation.

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- (2) Nothing in this Regulation affects an appeal made under Part 7 of the former Regulation and not determined before the commencement of this Regulation.

113A Application of amending Regulation

- (1) Nothing in the *Electricity Supply (General) Amendment Regulation 2001* requires a licence holder to amend a customer contract, or to provide information relating to interpreter services, despite any amendment made by that Regulation.
- (2) Any customer contract that is entered into, or renewed or extended, by a licence holder is, if it complied with the requirements applicable to it on the commencement of this clause, taken to comply with the requirements of this Regulation as amended by the *Electricity Supply (General) Amendment Regulation 2001*.
- (3) This clause ceases to have effect 3 months after the commencement of this clause.

113B Estimation of consumption

Clause 36, as amended by the *Electricity Supply (General) Amendment Regulation 2001*, does not apply in respect of any period before the commencement of this clause.

113C Payment plans for all suppliers

- (1) Suppliers are required to comply with clause 13A on and from the date that is 3 months after the commencement of the *Electricity Supply (General) Amendment Regulation 2007* or on and from a later date determined by the Minister and notified to suppliers.
- (2) The amendments made to clause 12 of Schedule 2 by the *Electricity Supply (General) Amendment Regulation 2007*, so far as they relate to payment plans, do not apply in respect of suppliers until the date that suppliers are required to comply with clause 13A.
- (3) However the provisions of this Regulation relating to payment plans, as in force immediately before the commencement of the *Electricity Supply (General) Amendment Regulation 2007*, continue to apply to standard retail suppliers until the date that all suppliers are required to comply with clause 13A.

Note. Clause 13A requires all retail suppliers who deal with small retail customers to operate a payment plan. Standard retail suppliers were already required to operate a payment plan under clause 6 of this Regulation immediately before its repeal and replacement by clause 13A and will continue to be required to operate those payment plans until all suppliers are required to comply with new clause 13A. It will also be necessary for those standard retail suppliers to re-submit their payment plans to the Minister for approval in order to comply with new clause 13A.

Division 2 General matters

114 Permissible electricity meters

- (1) For the purposes of section 72 (3) (a) of the Act, an electricity meter that is used to measure electricity supplied by a landlord must comply with the provisions of AS 1284 relevant to electricity meters of the same kind, or any relevant market operations rules in respect of electricity meters.
- (2) In this clause:
AS 1284 means the series of documents published by the Standards Australia, and numbered AS 1284, as in force on 7 May 1996.

114A, 114B (Renumbered as clauses 104G, 104H)

115 Exclusion of network use of system services

- (1) Connection services do not, for the purposes of the Act, include the conveyance of electricity for or on behalf of any supplier.
- (2) This clause takes effect at the end of the period for which a standard form customer supply contract is taken to continue in force under clause 29 (2) of Schedule 6 to the Act.

116 Variation of distribution districts

Schedule 4 has effect.

117 Delegation of Minister's functions

For the purposes of section 183 (2) (b) of the Act, the Director of the Market Implementation Group in the Treasury is a prescribed person.

118 Market operations rules

For the purposes of section 63C of the Act, market operations rules may be made for or with respect to the following matters:

- (a) obligations and procedures relating to the building, testing and implementation of systems by standard retail suppliers and distribution network service providers to support full retail contestability,
- (b) record keeping by licence holders,
- (c) obligations and procedures relating to the implementation of systems relating to the transfer of information between licence holders, that is required to be made under any Act or other law relating to the supply of electricity related services.

119 How notice is to be given

- (1) A requirement of this Regulation that a person be given written notice is a requirement that the person be given notice in writing either personally or by post.
- (2) If previously agreed between the parties, a person may be given written notice by personal e-mail or facsimile transmission.
- (3) For the purposes of section 76 of the *Interpretation Act 1987*, a notice served by post on a person for the purposes of this Regulation is to be treated as being properly addressed if it is addressed to the address of the person last known to the person giving the notice.

120 Service of documents

For the purposes of this Regulation, a document may be given to or served on an applicant for accreditation as an accredited abatement certificate provider, an accredited abatement certificate provider, a service provider or a supplier by leaving it at or sending it by post to any office of the applicant, accredited abatement certificate provider, service provider or supplier. This clause does not affect the operation of any provision of a law or of the rules of a court authorising a document to be served on an applicant for accreditation as an accredited abatement certificate provider, an accredited abatement certificate provider, a service provider or a supplier in a different manner.

121 Prescribed electricity works

For the purposes of section 54 (1A) of the Act, the following are prescribed electricity works:

- (a) electricity service equipment for which the supplier has responsibility,
- (b) systems for the metering and control of electricity supply for which the supplier has responsibility.

121A Date on which Divisions 5 and 6 of Part 4 of Act cease to have effect

- (1) For the purpose of section 43EJ (1) of the Act, 30 June 2013 is prescribed as the day on which Division 5 of Part 4 of the Act ceases to have effect.
- (2) For the purpose of section 43ES (1) of the Act, 30 June 2011 is prescribed as the day on which Division 6 of Part 4 of the Act ceases to have effect.

122 Repeal of Electricity Supply (General) Regulation 1996

The *Electricity Supply (General) Regulation 1996* is repealed.

Schedule 1 Requirements applicable to both customer supply and customer connection contracts

(Clause 40)

1 General requirements

- (1) A licence holder must use its best endeavours to ensure that a customer contract is expressed unambiguously and in plain English.
- (2) All words in the customer contract must be printed in a size and style that is easy to read.
- (3) The contract must contain the following matters:
 - (a) a statement of the kind of contract it is, the name of the licence holder and contact details of the licence holder,
 - (b) the name of any recognised code or recognised document that is relevant to any matter regulated by the contract and that the licence holder has chosen not to incorporate in the contract,
 - (c) any installation and service requirements with which the licence holder or customer must comply,
 - (d) if any condition of the contract specifies that the licence holder has a discretion in making any decision under the contract, the grounds on which that discretion may be exercised,
 - (e) the means by which a customer may arrange to see, or obtain a copy of, all or any part of the contract,
 - (f) a description of the services to be provided by the licence holder under the contract,
 - (g) in respect of any document incorporated (in whole or in part) by reference in the customer contract, the reason the document has been incorporated,
 - (h) if a document referred to in paragraph (g) is incorporated as in force from time to time, a note to the effect that:
 - (i) an amendment of any such document will have the effect of amending the standard form customer contract, and
 - (ii) if the document is issued by Standards Australia, or is a recognised document, no separate notice will be given of that amendment,
 - (i) particulars of the proper care and custody to be exercised by the customer in respect of metering or other equipment installed by or on behalf of the licence holder,

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- (j) a statement of the customer's rights in relation to disputes and resolution of disputes with the licence holder, including particulars of any applicable approved electricity industry ombudsman scheme and the procedures for referring complaints and disputes to the electricity industry ombudsman under that scheme,
 - (k) particulars of the circumstances, if any, in which information about a customer may be disclosed to another person,
 - (l) the manner in which notices under the contract are to be given or served,
 - (m) in the case of a standard form contract, a right for the licence holder to amend the contract without the prior consent of the customer,
 - (n) a requirement that the licence holder provide free of charge, if requested to do so by the customer, information about efficient energy consumption,
 - (o) a statement that the contract complies with the applicable provisions of the *Electricity Supply Act 1995*, the *Electricity Supply (General) Regulation 2001* and other instruments made under that Act,
 - (p) in community languages (including Arabic, Cantonese, Vietnamese, Italian, Greek and Spanish, and any other language approved by the licence holder after consultation with any relevant customer consultative group), information about the availability of interpreter services for the languages concerned and telephone numbers for the services.

2 Requirements relating to charges

- (1) The contract must contain the following matters related to charges:
 - (a) a description of charges payable under the contract for services provided or arranged by the licence holder,
 - (b) the amount of, or basis for calculation of, any charges in respect of customer connection services, charges in respect of electricity supply services and charges in respect of any other services,
 - (c) the tariffs and charges, including any off-peak or standby tariffs, payable by the customer,
 - (d) the availability of any off-peak or standby tariffs, and the extent to which the customer can take advantage of them,
 - (e) in the case of connection services provided or arranged by the licence holder, the charges or methods of calculation of charges for any installation work:

- (i) done on a customer's premises, or
 - (ii) incidental to the provision of customer connection services or the supply of electricity to the customer,
 - (f) the circumstances, if any, in which the licence holder may recover the costs associated with recovering any unpaid amount due to the licence holder,
 - (g) the circumstances, if any, in which the licence holder may charge interest on any unpaid amount due to the licence holder and the rate at which interest is to be charged.
- (2) The contract must provide that a customer is not liable to pay any charge unless the amount of, or basis for the calculation of the amount of, the charge is set out in the contract.
- (3) The rate at which interest may be charged on an unpaid account under a customer contract must not exceed the rate prescribed under section 101 of the *Civil Procedure Act 2005* for payment of interest on a judgment debt.

3 Requirements relating to bills

The licence holder must provide the customer with a statement of the customer's rights with respect to the matters covered by Division 4 of Part 3 of this Regulation.

4 Requirements relating to securities given for charges

The contract must separately provide for each of the following matters:

- (a) the circumstances in which the licence holder may require security to be provided by customers for payment of any charge,
- (b) the form and amount of any security to be provided by the customer,
- (c) if the security is to be in the form of a deposit with a financial institution, the interest, if any, that the licence holder is required to pay to the customer, or to the customer's account, in respect of any such security held by the licence holder,
- (d) the circumstances, if any, in which the licence holder can use that security to set off against the amount due on the customer's account,
- (e) when the security may be returned.

5 Requirements relating to service standards

- (1) It is a requirement that a customer contract must contain provisions establishing minimum standards of service to be provided to the customer by the licence holder.

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- (2) Those minimum standards must separately provide for or deal with each of the following matters:
- (a) the quality of services,
 - (b) the reliability of services,
 - (c) the response to customer enquiries (including the time taken to respond to such enquiries),
 - (d) the period within which services or work will be commenced in response to a customer enquiry,
 - (e) the period within which services or work will be commenced so as to remedy a disruption in the service,
 - (f) the period of notice required to be given when the licence holder carries out work (other than emergency work) that will disrupt the service,
 - (g) particulars of any relevant Government funded rebate or relief scheme to facilitate the payment of charges due to the licence holder,
 - (h) particulars of any payment plan operated by the licence holder to facilitate the payment of charges due to the licence holder,
 - (i) particulars of the arrangements made by the licence holder for the payment of compensation arising under the guaranteed customer service standards.
- (3) Nothing in this clause prevents the contract from containing other provisions as to the standard of service to be provided to customers.

6 Additional requirements relating to negotiated customer contracts

A negotiated customer contract must contain the following matters:

- (a) particulars of the customer's premises,
- (b) the manner in which the contract may be varied and notification of variations to the customer,
- (c) the names of the parties to the contract and contact details for the parties and that the customer is a small retail customer,
- (d) the terms and conditions that apply to or in respect of termination of the contract by the licence holder or the customer.

7 Restrictions on power to disconnect or arrange disconnection

The contract must prohibit the licence holder from disconnecting the customer's premises, or requesting that the customer's premises be disconnected, from the distribution system on grounds arising under this contract:

- (a) while any application made by the customer for assistance under:

- (i) any Government funded rebate or relief scheme that is available to customers, or
- (ii) any payment plan that is available to customers and is operated by the supplier,
is pending, or
- (b) while any life support system that relies on electricity for its operation is in use at the customer's premises.

Schedule 2 Customer supply contracts

(Clause 40)

Part 1 Requirements generally

1 Requirements relating to charges

The contract must contain, if the supplier establishes different categories of electricity supply (according to such criteria as the licence holder may determine), the different rates for different categories of electricity supplied, but only if each category of electricity supplied is measured separately from any other category.

2 Basis of charges is consumption

- (1) The contract is to provide that charges payable by the customer for the supply of electricity are to be based on the customer's measured or estimated consumption during a billing period.
- (2) The contract must require that metered consumption of electricity by the customer is to be measured at intervals of not less than 6 months.
- (3) The contract must require that the supplier reconcile any charges paid by the customer with the consumption measured.
- (4) Despite subclause (1), a negotiated customer supply contract may provide that the charges payable by the customer for the supply of electricity are to be based on something other than the customer's consumption.

3 Commencement of supply

- (1) The contract must provide for the supply of electricity to commence on the day specified by the supplier, being a day that is not less than 10 days after the commencement of the contract.
- (2) Despite subclause (1), the contract may provide for the supply of electricity to commence at an earlier date than is specified under that subclause if:
 - (a) the supply of electricity to the premises involves the provision of a new connection service, or
 - (b) the customer was, immediately before the commencement of the contract, being supplied electricity by a supplier under a new occupant supply arrangement or an exempt last resort arrangement.

- (3) The contract must provide that a customer who has been supplied with electricity by a supplier immediately before the commencement of the supply of electricity under this contract:
- (a) in the case of a new occupant supply arrangement, for a period of 14 days or less, or
 - (b) in the case of an exempt last resort arrangement, for a period of 1 month or less,
- is liable to the supplier under this contract for payment for that period of supply. The contract may not make the customer liable under the contract for payment for supply in respect of any earlier period.
- (4) Despite subclause (3), a customer is not to be liable under the contract to pay the supplier if the customer pays another supplier for the supply of that electricity or, in the case of a negotiated contract, the customer terminates the contract under a cooling off clause.

4 Connection services

- (1) The contract is to enable the supplier to arrange, on behalf of the customer, for connection services to be provided to the premises.
- (2) The contract must not prevent the customer from making arrangements directly with the service provider for the provision of customer connection services.
- (3) The contract must require the customer to pay to the supplier the charges for connection services provided to the customer by the service provider and arranged by the supplier.
- (4) The contract (other than provisions relating to variation of charges) must apply to charges for connection services arranged by the supplier in the same way as it applies to charges payable under the contract.

5 Discontinuance of supply at customer's request

- (1) The contract is to require the customer to give the supplier not less than 72 hours' notice of the customer's desire that the supply of electricity to the customer be discontinued.
- (2) If notice is not given, the contract may make the customer liable for all charges in respect of the supply concerned, and any charges for connection services arranged by the supplier, until the end of a specified period (not exceeding 72 hours) after the supplier becomes aware of the customer's desire that supply be discontinued or until the supply is discontinued or is otherwise transferred, whichever happens first.
- (3) A requirement under subclause (2) does not apply if the supplier enters into, or is taken to have entered into, a new customer supply contract in respect of the same premises.

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- (4) Nothing in this clause prevents the contract from requiring the payment of additional charges by the customer on discontinuance, being charges otherwise permitted under the Act, this Regulation or the contract.

6 Customer not liable in event of involuntary transfer

- (1) The contract must enable the customer to transfer, or be transferred, as a customer to another supplier, if last resort supply arrangements are implemented with respect to the customer.
- (2) The contract must provide that the supplier under the contract is not entitled to be paid any compensation or other payment by the customer in respect of any such transfer, including the cost incurred by the supplier in relation to the transfer.

7 Cooling off period under negotiated customer supply contracts

- (1) A negotiated customer supply contract must confer on the customer a right to terminate the contract (orally or in writing) within 10 days after the date that the contract is entered into, or the date that a copy of the contract is received by the customer, whichever is the later.
- (1A) If a customer exercises any such right to terminate a negotiated customer supply contract, the contract must require the supplier to provide the customer with a record of that termination.
- (2) The contract must provide that the supplier is not entitled to the payment of any costs, compensation or any other amount as a consequence of any such termination of the contract, other than charges payable in respect of any electricity supplied, or any other services provided, under the contract.

8 Discontinuance of supply under negotiated customer supply contracts

- (1) A negotiated customer supply contract must enable the supplier to discontinue the supply of electricity to the premises if the period of supply under the contract ends or if the person who owns or occupies the premises:
- (a) has failed to provide any security required for the payment of any charges related to the supply of electricity or connection services arranged, or
 - (b) has failed to pay an amount due to the supplier under the contract with respect to the supply of electricity or connection services arranged by the supplier, or
 - (c) has refused or failed to give an authorised officer access to any premises supplied with electricity by the supplier in accordance with any right to access provided for in the Act or this contract, or

- (d) has obstructed the authorised person in relation to any act, matter or thing done or to be done in carrying out any function under the contract.
- (2) Nothing in this clause affects the right to interrupt continuous supply as agreed in the contract.
- (3) Nothing in this clause affects any right or obligation to refuse to supply, or to discontinue supply, arising from the operation of the *Electricity Supply (Safety and Network Management) Regulation 2002* or *Electricity (Consumer Safety) Act 2004*.

9 Additional requirements for negotiated customer supply contracts

- (1) A negotiated customer supply contract must provide that the supplier may not use any part of a security deposit paid under the contract to recover amounts due in respect of charges other than charges related to the supply of electricity or connection services arranged by the supplier.
- (2) A negotiated customer supply contract must set out the basis for calculation of charges that will apply if the customer is supplied for a subsequent period of supply under the contract.

Part 2 Guaranteed customer service standards

10 Telephone hotlines

- (1) The contract must require the supplier to inform the customer about any relevant telephone service that operates 7 days a week and 24 hours a day, being a telephone service:
 - (a) that operates on a number to which a customer can be connected for not more than the price of a local telephone call, and
 - (b) that can receive notice of, and give information concerning, faults and difficulties in electricity works.
- (2) The contract must require the supplier to provide a telephone service that operates during business hours, being a telephone service:
 - (a) that operates on a number to which a person can be connected for not more than the price of a local telephone call, and
 - (b) that can receive notice of, and give information concerning, customers' bills and customer connection services arranged by the supplier.
- (3) An automated answering service satisfies the requirements of this clause only if it makes provision for the transfer of calls to a human operator.

11 Punctuality in keeping appointments

The contract must provide that if the supplier (or the supplier's representative) is more than 15 minutes late for an appointment with a customer (or the customer's representative), the supplier must pay to the customer, by way of compensation for the delay, not less than \$25.

12 No discontinuation of supply except after due notice

- (1) This clause applies if the supplier becomes authorised to discontinue electricity supply to a customer on grounds arising under the contract, the Act or any regulation made under the Act.
- (2) The contract must require that the supplier not take action to discontinue supply (including requesting disconnection of supply) unless:
 - (a) the supplier has sent to the customer at least 2 written notices of the supplier's intention to do so, the second notice to be sent no earlier than one week after the first notice, and
 - (b) the supplier has made reasonable attempts to deal with the customer in person or by telephone, whether before or after sending any such notice, for the purpose of assisting the customer to do whatever is necessary to remove the grounds referred to in that notice.
- (3) The contract must require that in any notice referred to in subclause (2) (a), and in any dealings with the customer referred to in subclause (2) (b), the supplier:
 - (a) must specify the grounds authorising the supplier to take the action proposed, and
 - (b) must indicate the date on or after which the supply to the customer's premises may be discontinued if those grounds are not removed, being a date occurring no earlier than 14 days after the first such notice is sent, and
 - (c) must advise the customer:
 - (i) of the customer's rights under this Part, and
 - (ii) in particular, of any rights that the customer may have to have the complaint or dispute referred to the electricity industry ombudsman for resolution, and
 - (d) if the grounds authorising the supplier to take the action proposed include the customer's failure to make due payment of money owed to the supplier with respect to the provision of customer connection services or the supply of electricity, must advise the customer:
 - (i) of any Government funded rebate or relief schemes that are relevant to the customer, and

- (ii) of any payment plan operated by the supplier that is available to the customer if the customer is experiencing financial difficulty, and
 - (iii) if the customer has applied for assistance under the payment plan by the date indicated by the supplier as the date by which the customer must make an application, of the outcome of such application on or before the second written notice given under subclause (2) (a).
- (4) The contract must require the supplier, if attempts to deal with the customer under subclause (2) (b) are unsuccessful because of a failure to make contact with the customer, to use its best endeavours to make contact with the customer outside business hours for the purpose of dealing with the customer as required by that subclause.
- (5) The contract must require the supplier to document all action that it takes under subclause (2) (b) or (4).
- (6) The contract must require that the supplier not take action of the kind referred to in subclause (1):
 - (a) until after the date specified in accordance with subclause (3) (b) in the notices referred to in subclause (2) (a), or
 - (b) subject to paragraph (a), if before that date the customer makes a request that the complaint (being a complaint that is covered by an approved electricity industry ombudsman scheme) be referred for resolution by the electricity industry ombudsman, until the date occurring 3 business days after the date on which the complaint is so referred,and, in any case, must not take any such action if, before the date last referred to in paragraph (b), the electricity industry ombudsman directs that such action not be taken.
- (7) The contract must require that the supplier not discontinue electricity supply for a failure to make due payment of money owed to the supplier if the customer applies before the date specified in accordance with subclause (3) (b) for assistance under the payment plan operated by the supplier.
- (7A) Subclause (7) does not prevent a supplier from discontinuing electricity supply if a customer fails to make due payment of money in accordance with the payment plan operated by the supplier or is assessed by the supplier to be ineligible for assistance under the payment plan.
- (8) Nothing in this clause affects any right or obligation to disconnect premises arising from the operation of the *Electricity Supply (Safety and Network Management) Regulation 2002* or *Electricity (Consumer Safety) Act 2004*.

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- (9) In this clause:
business day means a day that is not a Saturday, Sunday or public holiday.

13 Notice to be given to customer after disconnection

- (1) The contract must require that, if the customer's premises are disconnected from a distribution system on the request of the supplier, the supplier must give the customer a notice to the effect that the premises have been disconnected.
- (2) The contract must require that the notice contain the following information:
- (a) the grounds on which the customer's premises were disconnected from the distribution system,
 - (b) a telephone number to contact for the purpose of enabling the customer to discuss the matter with a person acting on behalf of the supplier,
 - (c) the arrangements that the customer will need to make for the reconnection of the premises to the distribution system, including any costs payable by the customer in relation to reconnection,
 - (d) the dispute resolution procedures that are available to the customer in relation to disputes between the customer and the supplier.
- (3) The contract must require the supplier to promptly notify the service provider of any request for reconnection to the distribution system by the customer, if the customer becomes entitled to be reconnected.

14 Discontinuance of supply at customer's request

This Part does not prevent a supplier from discontinuing the supply of electricity at the customer's request to a customer's premises in accordance with a request from the customer.

Schedule 3 Customer connection contracts

(Clause 40)

Part 1 Requirements generally

1 General requirements relating to accreditation and new connection services

- (1) The contract must contain the following matters:
 - (a) the name of the scheme for the accreditation by the service provider of persons who may provide contestable services,
 - (b) the requirements, in accordance with this Regulation, for connection of premises involving a new connection service.
- (2) A customer connection contract must, in a case where connection services are not arranged by a supplier under a customer supply contract with the customer, set out the following matters:
 - (a) the intervals at which bills are to be issued to the customer,
 - (b) the circumstances in which the service provider may correct a bill and the manner and time in which a corrected amount is to be paid.

2 Commencement of provision of connection services

The contract must provide that the provision of connection services is to commence on a date specified by the service provider.

3 Disconnection on request by customer

- (1) The contract must require the customer to give the service provider not less than 48 hours' notice of the customer's desire that the customer's premises be disconnected from the distribution system.
- (2) The contract must require that, if notice is not given, the customer remains liable for all charges in respect of the provision of the connection services concerned until 48 hours after the service provider becomes aware of the customer's desire that the contract be terminated or until the service provider disconnects the supply of electricity, whichever happens first.
- (3) Subclause (2) does not apply if:
 - (a) the service provider enters into, or is taken to have entered into, a new customer connection contract in respect of the same premises, or
 - (b) if the connection services to the customer are arranged by a supplier under a customer supply contract with the customer.

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- (4) The contract may provide that such notice may be given on the customer's behalf by a supplier who has arranged the provision of connection services on behalf of the customer.

4 Extension of increase in capacity of distribution system

- (1) This clause applies if:
- (a) the provision of customer connection services to a customer requires an extension to the service provider's distribution system or an increase in the capacity of the distribution system so as to enable it to provide customer connection services, and
 - (b) the service provider is of the opinion that a contribution is required under section 25 of the Act.
- (2) The contract must require that the customer may decide whether the work is to be carried out:
- (a) by the service provider, or
 - (b) for the service provider by a person accredited under Division 2 of Part 10 of the *Electricity Supply (General) Regulation 2001* chosen by the customer.

5 Last resort supply arrangements

- (1) The contract must provide that the service provider is authorised to provide any necessary information relating to the customer to a supplier or other person or body for the purposes of enabling the transfer of the customer to a retailer of last resort and the consequential implementation of last resort supply arrangements.
- (2) The contract must provide that the customer authorises the service provider or a person nominated by the service provider to transfer the customer to a retailer of last resort or take any other action to implement or arrange last resort supply arrangements if such arrangements come into force with respect to the customer.
- (3) The contract must provide that the customer is liable to pay the service provider for any electricity supplied, and any other related goods or services supplied, to the customer by a retailer of last resort under a last resort supply arrangement, but only if the service provider has agreed with the retailer of last resort to arrange for the collection of those charges and notified the customer in writing of the agreement.
- (4) The contract must provide that the customer is not liable to pay an amount under subclause (3) if the customer pays the retailer of last resort for the electricity or other goods or services provided or if the customer enters into a customer supply contract with the retailer of last resort or another supplier under which the amount is payable.

6 Liability for charges for connection services and obligations under this Part

The contract must provide that the customer is not liable to pay the service provider for any connection services or other goods and services provided under this contract to the extent to which the customer is liable to pay a supplier for those services under a customer supply contract entered into between the customer and the supplier.

7 Liability of customer

The contract must provide that the customer is not liable for any charges for connection services or other goods or services provided by the service provider that a previous customer at the premises is liable to pay.

8 Provisions relating to payment of charges under negotiated customer connection contracts

A negotiated customer connection contract must provide that the service provider may not use any part of a security deposit paid under the contract to recover amounts due in respect of charges other than charges related to the provision of connection services.

Part 2 Guaranteed customer service standards

9 Timely provision of services

- (1) The contract must provide that if the service provider fails to provide a connection service under the contract on or before the date agreed between the service provider and the customer or the customer's representative as the date by which the service is to be provided, the service provider is to pay to the customer, by way of compensation for the delay, not less than \$60 for each day that elapses between the agreed date and the date by which the service is actually provided.
- (2) The contract must provide that the maximum amount payable under this clause in relation to any one service is \$300.

10 Timely notice of planned interruptions to supply

- (1) The contract must provide that if the service provider:
 - (a) fails to provide to the customer at least 2 business days' notice of any interruption by the service provider to the customer's supply of electricity, or
 - (b) interrupts the customer's supply of electricity for longer than the time indicated in any such notice,

the service provider is to pay to the customer, by way of compensation for the interruption of supply, not less than \$20.

- (2) This clause does not apply to any interruption of supply that arises:
 - (a) for the purpose of enabling the service provider to carry out emergency work, or
 - (b) in circumstances beyond the control of the service provider.
- (3) In this clause:
business day means a day that is not a Saturday, Sunday or public holiday.

11 Hotline services

- (1) The contract must provide that the service provider operate a telephone service 7 days a week and 24 hours a day, being a telephone service:
 - (a) that operates on a number to which a person can be connected for not more than the price of a local telephone call, and
 - (b) that can receive notice of, and give information concerning, faults and difficulties in the service provider's electricity works.
- (2) The contract must provide that the service provider must provide a telephone service that operates during business hours, being a telephone service:
 - (a) that operates on a number to which a person can be connected for not more than the price of a local telephone call, and
 - (b) that can receive notice of, and give information concerning, customers' bills and customer connection services.
- (3) An automated answering service satisfies the requirements of this clause only if it makes provision for the transfer of calls to a human operator.

12 Repair of faulty street lights

- (1) The contract must provide that if the service provider fails to repair faulty street lighting on or before the date agreed between the customer and the service provider as the date by which the repair is to be completed, the service provider must pay to the customer, by way of compensation for the loss of illumination, not less than \$15.
- (2) This clause applies to street lighting that is owned by the service provider or that the service provider is under a legally enforceable obligation to maintain, but does not apply to street lighting to which the service provider merely supplies electricity or connection services.

- (3) This clause applies only to or in respect of the customer if the customer's premises abut the part of the street that (but for the fault) would ordinarily be illuminated by the street lighting.

13 Punctuality in keeping appointments

The contract must provide that if the service provider (or the service provider's representative) is more than 15 minutes late for an appointment with a customer (or the customer's representative), the service provider must pay to the customer, by way of compensation for the delay, not less than \$25.

14 No disconnection on weekends or public holidays

The contract must provide that in the event that the service provider becomes authorised to disconnect premises from a distribution system on grounds arising under this contract or under a customer supply contract, the service provider must not do so:

- (a) on a Friday, Saturday or Sunday, or
- (b) on a public holiday or day immediately preceding a public holiday, or
- (c) after 3.00 pm on any other day.

15 No disconnection except after due notice

- (1) This clause applies if the service provider becomes authorised to disconnect the customer's premises from the distribution system but does not apply to a disconnection on a request by the customer or a supplier who has complied with the applicable discontinuance requirements.
- (2) The contract must require that the service provider not take action to disconnect premises unless:
- (a) the service provider has sent to the customer at least 2 written notices of the service provider's intention to do so, the second notice to be sent no earlier than one week after the first notice, and
 - (b) the service provider has made reasonable attempts to deal with the customer in person or by telephone, whether before or after sending any such notice, for the purpose of assisting the customer to do whatever is necessary to remove the grounds referred to in that notice.
- (3) The contract must provide that in any notice referred to in subclause (2) (a), and in any dealings with the customer referred to in subclause (2) (b), the service provider:

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- (a) must specify the grounds authorising the service provider to take the action proposed, and
 - (b) must indicate the date on or after which the supply to the customer's premises may be disconnected if those grounds are not removed, being a date occurring no earlier than 14 days after the first such notice is sent, and
 - (c) must advise the customer:
 - (i) of the customer's rights under this Part, and
 - (ii) in particular, of any rights that the customer may have to have the complaint or dispute referred to the electricity industry ombudsman for resolution.
- (4) The contract must require the supplier, if attempts to deal with the customer under subclause (2) (b) are unsuccessful because of a failure to make contact with the customer, to use its best endeavours to make contact with the customer outside business hours for the purpose of dealing with the customer as required by that subclause.
- (5) The contract must provide that a service provider must document all action that it takes under subclause (2) (b) or (4).
- (6) The contract must provide that a service provider must not take action of the kind referred to in subclause (1):
- (a) until after the date specified in accordance with subclause (3) (b) in the notices referred to in subclause (2) (a), or
 - (b) subject to paragraph (a), if before that date the customer makes a request that the complaint (being a complaint that is covered by an approved electricity industry ombudsman scheme) be referred for resolution by the electricity industry ombudsman, until the date occurring 3 business days after the date on which the complaint is so referred,
- and, in any case, must not take any such action if, before the date last referred to in paragraph (b), the electricity industry ombudsman directs that such action not be taken.
- (7) Nothing in this clause affects any right or obligation to disconnect premises arising from the operation of the *Electricity Supply (Safety and Network Management) Regulation 2002* or *Electricity (Consumer Safety) Act 2004*.
- (8) In this clause:
business day means a day that is not a Saturday, Sunday or public holiday.

16 Notice to be given to customer after disconnection

- (1) The contract must provide that if the customer's premises are disconnected from a distribution system (other than at the request of a supplier) the service provider must give the customer a notice to the effect that the premises have been disconnected.
- (2) The contract must provide that the notice must contain the following information:
 - (a) the grounds on which the customer's premises were disconnected from the distribution system,
 - (b) a telephone number to contact for the purpose of enabling the customer to discuss the matter with a person acting on behalf of the service provider,
 - (c) the arrangements that the customer will need to make for the reconnection of the premises to the distribution system, including any costs payable by the customer in relation to reconnection,
 - (d) the dispute resolution procedures that are available to the customer in relation to disputes between the customer and the service provider.

17 Disconnection at customer's request

This Part does not prevent a service provider from disconnecting a customer's premises from its distribution system in accordance with a request from the customer.

18 Time limit for new connection services

- (1) The contract must provide that, in the case of a new connection service requested to be provided under the contract, the service provider must connect the premises:
 - (a) if the connection request is made before 3.00 pm on a business day, not later than the end of the next business day, or
 - (b) if the connection request is made after 3.00 pm on a business day, not later than the end of the second business day following the day the request is made.
- (2) Nothing in this clause prevents the service provider and the customer from agreeing to a longer period before connection of the premises to the distribution system.
- (3) The contract may provide that a service provider is not required to connect premises to a distribution system within the period specified in this clause if the relevant equipment is not in place to do so or the customer is, for any reason, not entitled to be provided with the connection service.

Schedule 4 Variation of distribution districts

(Clause 116)

1 Distribution district of Australian Inland Energy and Water Infrastructure

- (1) The part of Wakool referred to in the description of Australian Inland Energy and Water Infrastructure's distribution district in Schedule 3 to the Act is such part of Wakool as is illustrated as being within that distribution district by the map marked "Far West Energy—Distribution District", copies of which are deposited in the offices of the Ministry of Energy and Utilities.
- (2) The part of Windouran referred to in the description of Australian Inland Energy and Water Infrastructure's distribution district in Schedule 3 to the Act is such part of Windouran as is illustrated as being within that distribution district by the map marked "Far West Energy—Distribution District", copies of which are deposited in the offices of the Ministry of Energy and Utilities.
- (3) The part of the unincorporated area referred to in the description of Australian Inland Energy and Water Infrastructure's distribution district in Schedule 3 to the Act is the whole of that area, excluding such part of that area as is within the distribution district of Country Energy.

2 Distribution district of Country Energy

- (1) The part of Wakool referred to in the description of Country Energy's distribution district in Schedule 3 to the Act is such part of Wakool as is illustrated as being within that distribution district by the map marked "Energy South—Distribution District", copies of which are deposited in the offices of the Ministry of Energy and Utilities.
- (2) The part of Windouran referred to in the description of Country Energy's distribution district in Schedule 3 to the Act is such part of Windouran as is illustrated as being within that distribution district by the map marked "Energy South—Distribution District", copies of which are deposited in the offices of the Ministry of Energy and Utilities.
- (3) The part of Merriwa referred to in the description of Country Energy's distribution district in Schedule 3 to the Act is such part of Merriwa as was within the distribution district of Ulan Electricity, as it was immediately before the date of amalgamation.
- (4) The part of the unincorporated area referred to in the description of Country Energy's distribution district in Schedule 3 to the Act is such part of that area as includes:

- (a) Western Land Portions WL 3486, WL 3487 and WL 3488 in the County of Fitzgerald, and
- (b) the County of Ularara (Western Land Portions WL 1056, WL 1059, WL 1062, WL 1063 and WL 3069 excepted), and
- (c) the Counties of Delalah and Thoulcanna.

3 Distribution district of EnergyAustralia

The part of Merriwa referred to in the description of Energy Australia's distribution district in Schedule 3 to the Act is such part of Merriwa as was within the distribution district of Shortland Electricity, as it was immediately before the date of amalgamation.

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
Cll	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments

Electricity Supply (General) Regulation 2001 published in Gazette No 103 of 29.6.2001, p 4494 and amended as follows:

Electricity Supply (General) Amendment Regulation 2001 (GG No 196 of 21.12.2001, p 10470)

Electricity Supply (General) Amendment (Greenhouse Gas Emission Reduction) Regulation 2002 (GG No 263 of 20.12.2002, p 10761)

Electricity Supply (General) Amendment (Greenhouse Gas Abatement Certificate Scheme) Regulation 2003 (GG No 45 of 14.2.2003, p 1590)

Electricity Supply (General) Amendment (Tribunal and Electricity Tariff Equalisation Fund) Regulation 2003 (GG No 145 of 19.9.2003, p 9419)

Electricity Supply (General) Amendment (Reduction of Greenhouse Gas Emissions) Regulation 2003 (GG No 197 of 19.12.2003, p 11290)

Electricity (Consumer Safety) Act 2004 No 4. Assented to 17.3.2004. Date of commencement of Sch 4.5, 3.2.2006, sec 2 (1) and GG No 16 of 3.2.2006, p 532.

Electricity Supply (General) Amendment (Reduction of Greenhouse Gas Emissions) Regulation 2004 (GG No 153 of 1.10.2004, p 7737)

2005 (630) Electricity Supply (General) Amendment (Large Customers) Regulation 2005. GG No 122 of 7.10.2005, p 8178.

Date of commencement, 7.10.2005, cl 2.

No 98 Statute Law (Miscellaneous Provisions) Act (No 2) 2005. Assented to 24.11.2005.

Date of commencement of Sch 2.18, assent, sec 2 (2).

2006 No 83 Electricity Supply Amendment (Greenhouse Gas Abatement Scheme) Act 2006. Assented to 30.10.2006.

Date of commencement, 8.12.2006, sec 2 and GG No 175 of 8.12.2006, p 10389.

- (785) Electricity Supply (General) Amendment (Renewable Energy Sources) Regulation 2006. GG No 189 of 22.12.2006, p 11686.
Date of commencement, 15.1.2007, cl 2.
- 2007** (114) Electricity Supply Amendment (Miscellaneous) Regulation 2007. GG No 36 of 2.3.2007, p 1324.
Date of commencement, on gazettal.
- (283) Electricity Supply (General) Amendment Regulation 2007. GG No 83 of 29.6.2007, p 4021.
Date of commencement, 1.7.2007, cl 2.
- 2008** No 62 Statute Law (Miscellaneous Provisions) Act 2008. Assented to 1.7.2008.
Date of commencement of Sch 2.19, assent, sec 2 (2).
- 2009** (266) Electricity Supply (General) Amendment (Energy Savings) Regulation 2009. LW 26.6.2009.
Date of commencement, 1.7.2009, cl 2.
- (478) Electricity Supply (General) Amendment Regulation 2009. LW 25.9.2009.
Date of commencement, on publication on LW, cl 2.
- No 100 Electricity Supply Amendment (GGAS) Act 2009. Assented to 14.12.2009.
Date of commencement, assent, sec 2.
- (583) Electricity Supply (General) Amendment (Solar Bonus Scheme) Regulation 2009. LW 18.12.2009.
Date of commencement of Sch 1 [1], 1.7.2010, cl 2 (2); date of commencement of Sch 1 [2], 1.1.2010, cl 2 (1).
- 2010** (59) Electricity Supply (General) Amendment (Customer Hardship) Regulation 2010. LW 26.2.2010.
Date of commencement, 1.3.2010, cl 2.
- (272) Electricity Supply (General) Amendment (Solar Bonus Scheme) Regulation 2010. LW 25.6.2010.
Date of commencement, on publication on LW, cl 2.
- No 61 Commercial Arbitration Act 2010. Assented to 28.6.2010.
Date of commencement, 1.10.2010, sec 1B and 2010 (541) LW 24.9.2010.
- (331) Electricity Supply (General) Amendment (Infrastructure Protection) Regulation 2010. LW 1.7.2010.
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