

TASMANIA

NATIONAL ENERGY RETAIL LAW (TASMANIA) (CONSEQUENTIAL AMENDMENTS) BILL 2012

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NATIONAL ENERGY RETAIL LAW (TASMANIA) (CONSEQUENTIAL AMENDMENTS) BILL 2012

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
29 March 2012

*(Brought in by the Minister for Energy and Resources, the
Honourable Bryan Alexander Green)*

A BILL FOR

An Act to amend the *Electricity – National Scheme (Tasmania) Act 1999*, the *Electricity Supply Industry Act 1995* and the *Energy Ombudsman Act 1998*, consequential on the enactment of the *National Energy Retail Law (Tasmania) Act 2012*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *National Energy Retail Law (Tasmania) (Consequential Amendments) Act 2012*.

THIS BILL IS COGNATE WITH THE *NATIONAL ENERGY RETAIL LAW (TASMANIA) BILL 2012*

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Amendments) Act 2012*
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Part 1 – Preliminary

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

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Part 2 – Electricity - National Scheme (Tasmania) Act 1999 Amended

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**PART 2 – ELECTRICITY - NATIONAL SCHEME
(TASMANIA) ACT 1999 AMENDED**

3. Principal Act

In this Part, the *Electricity - National Scheme (Tasmania) Act 1999** is referred to as the Principal Act.

4. Section 9 amended (Interpretation)

Section 9(1) of the Principal Act is amended by omitting “Australian Energy Regulator” from the definition of *transfer day* and substituting “AER”.

5. Section 10 amended (Law applying to relevant declared electrical service price determination)

Section 10 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “Australian Energy Regulator” and substituting “AER”;
- (b) by omitting from subsection (4)(a) “Australian Electricity Regulator” and substituting “AER”;

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- (c) by omitting from subsection (4)(b) “Australian Energy Regulator” and substituting “AER”.

6. Part 4 inserted

After section 10 of the Principal Act, the following Part is inserted:

PART 4 – RELATED MATTERS

11. Regulation-making power for the National Electricity (Tasmania) Law

The Governor may make such regulations as are contemplated by the National Electricity (Tasmania) Law as being made under this Act as the application Act of this jurisdiction.

12. Validation of instruments and decisions made by AER

- (1) This section applies to an instrument or a decision made by the AER if –
- (a) the instrument or decision was made –
 - (i) at or after the time that the *National Energy Retail Law (South Australia) Act*

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2011 of South Australia
was enacted; but

- (ii) before the time (the *application time*) that the National Energy Retail Law first started to apply under the *National Energy Retail Law (Tasmania) Act 2012* as a law of Tasmania; and
- (b) had the National Energy Retail Law started so to apply, the making of the instrument or decision would have been authorised by one of the following laws (the *authorising law*):
 - (i) the National Electricity (Tasmania) Law;
 - (ii) the National Electricity (Tasmania) Regulations;
 - (iii) the Rules;
 - (iv) this Act;
 - (v) an instrument made or having effect under this Act; and
- (c) where the making of the instrument or decision would be

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so authorised subject to the satisfaction of any conditions or other requirements (for example, consultation or publication requirements), the AER has done all that would, if the National Energy Retail Law had started so to apply, be required under the authorising law for the instrument or decision to be so authorised.

- (2) For the purposes of the authorising law –
 - (a) the instrument or decision is taken to be valid; and
 - (b) the instrument or decision has effect from the application time –
 - (i) as varied, and unless revoked, by any other instrument or decision to which this section applies; and
 - (ii) subject to that law as so applying.
- (3) For this section –
 - (a) guidelines are an example of an instrument; and
 - (b) the following are examples of decisions:

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- (i) appointments;
- (ii) determinations;
- (iii) approvals.

13. Authorisation of preparatory steps by AER

(1) This section applies if –

(a) the AER is required to do something (a *preparatory step*) before making a decision or making an instrument under one of the following (the *authorising law*):

- (i) the National Electricity (Tasmania) Law;
- (ii) the National Electricity (Tasmania) Regulations;
- (iii) the Rules;
- (iv) this Act;
- (v) an instrument made or having effect under this Act; and

(b) the AER takes the preparatory step –

- (i) at or after the time that the *National Energy Retail*

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*Law (South Australia) Act
2011 of South Australia*
was enacted; but

- (ii) before the time the National Energy Retail Law first started to apply under the *National Energy Retail Law (Tasmania) Act 2012* as a law of Tasmania.
- (2) For the purposes of the authorising law, the AER is taken to have complied with the requirement to take the preparatory step.

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Part 3 – Electricity Supply Industry Act 1995 Amended

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**PART 3 – ELECTRICITY SUPPLY INDUSTRY ACT
1995 AMENDED**

7. Principal Act

In this Part, the *Electricity Supply Industry Act 1995** is referred to as the Principal Act.

8. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting “*Trade Practices Act 1974*” from the definition of *AER* and substituting “*Competition and Consumer Act 2010*”;
- (b) by inserting the following definitions after the definition of *AER*:

Aurora Energy means Aurora Energy Pty Ltd (ABN 85 082 464 622);

Aurora Retail means Aurora Energy in its capacity as the holder of a retailer authorisation;

- (c) by inserting the following definition after the definition of *authorised officer*:

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Amendments) Act 2012*
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authorised retailer means a person who is the holder of a retailer authorisation;

- (d) by inserting the following definitions after the definition of *Basslink*:

Bass Strait Islands means those islands in the State of Tasmania known as King Island and Flinders Island;

Bass Strait Islands tariff retailer means –

- (a) the holder of a licence issued under section 19A(2); and
- (b) the holder of a licence issued in accordance with section 19A(6);

business customer means a customer who is not a residential customer;

- (e) by omitting the definitions of *contestable customer*, *customer* and *customer retail services* and substituting the following definitions:

connection means a physical link between a distribution system and a customer's premises to allow the flow of electricity;

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contestable customer means a customer who is determined by or under the regulations to be a contestable customer;

customer means a person to whom electricity is sold for premises by a retailer or who proposes to purchase electricity for premises from a retailer;

customer retail services means the sale of electricity by a retailer to a customer at premises;

(f) by inserting “, or premises,” after “installation” in the definition of *disconnect*;

(g) by inserting the following definition after the definition of *land*:

licence means a licence issued under section 19 or 19A;

(h) by inserting the following definitions after the definition of *low voltage*:

mainland Tasmania means all parts of Tasmania other than any off-shore island of Tasmania (except for Bruny Island);

market retail contract has the meaning it has in the National Energy Retail Law (Tasmania);

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- (i) by inserting the following definitions after the definition of *National Electricity Rules*:

National Energy Retail Law (Tasmania) has the meaning it has in the *National Energy Retail Law (Tasmania) Act 2012*;

National Energy Retail Regulations (Tasmania) has the meaning it has in the *National Energy Retail Law (Tasmania) Act 2012*;

National Energy Retail Rules means the National Energy Retail Rules, within the meaning of the National Energy Retail Law (Tasmania), as modified in their application in this jurisdiction under the *National Energy Retail Law (Tasmania) Act 2012*;

- (j) by omitting the definition of *non-contestable customer* and substituting the following definition:

non-contestable customer means a small customer who is not a contestable customer;

- (k) by omitting the definitions of *retailer*, *retailer of last resort* and *retailing* and substituting the following definitions:

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residential customer means a customer who purchases electricity principally for personal, household or domestic use at premises;

retailer means a person who sells, or proposes to sell, for premises, electricity to a customer;

retailer authorisation has the meaning it has in the National Energy Retail Law (Tasmania);

- (l) by inserting the following definitions after the definition of *reviewable decision*:

small customer means a customer who is a small customer under the National Energy Retail Law (Tasmania);

standing offer prices has the meaning it has in the National Energy Retail Law (Tasmania);

- (m) by omitting the definitions of *supply area* and *tariff*;
- (n) by omitting the definition of *vesting agreement*.

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Amendments) Act 2012*
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Part 3 – Electricity Supply Industry Act 1995 Amended

9. Section 3A amended (Meaning of distribution network and electricity generating plant)

Section 3A of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

- (1) In this Act, a reference to a distribution network is a reference to the apparatus, electric lines, equipment, plant, and buildings, used to convey or control the conveyance of electricity, that the National Electricity Rules specify as, or as forming part of, a distribution system.

10. Section 6 amended (Regulator's functions and powers)

Section 6 of the Principal Act is amended by omitting subsections (5) and (6).

11. Section 17 amended (Requirement for licence)

Section 17(2) of the Principal Act is amended by omitting paragraph (d) and substituting the following paragraph:

- (d) the retailing of electricity in the Bass Strait Islands; or

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12. Section 18 amended (Application for licence)

Section 18(1)(c) of the Principal Act is amended by omitting subparagraph (iv) and substituting the following subparagraph:

- (iv) if authority for retailing electricity in the Bass Strait Islands is sought, contain details of the business or proposed business; and

13. Section 19 amended (Consideration of application)

Section 19 of the Principal Act is amended as follows:

- (a) by omitting paragraph (fa) from subsection (2);
- (b) by omitting subsection (2A).

14. Sections 19A and 19B inserted

After section 19 of the Principal Act, the following sections are inserted in Subdivision 1:

19A. Bass Strait Islands power system

- (1) In this section –

Bass Strait Islands power system
means the system for generation and distribution of electricity in the Bass Strait Islands.

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- (2) On the day on which this section comes into operation, the Regulator must issue –
 - (a) a licence to the Hydro-Electric Corporation to carry on, in relation to the Bass Strait Islands, the operations in the electricity supply industry referred to in section 17(2)(a); and
 - (b) a licence to the Hydro-Electric Corporation to carry on, in relation to the Bass Strait Islands, the operations in the electricity supply industry referred to in section 17(2)(c); and
 - (c) a licence to the Hydro-Electric Corporation to carry on the operations in the electricity supply industry referred to in section 17(2)(d).
- (3) Section 19, section 21, section 27(1) and (3), section 29 and section 30 do not apply in relation to a licence issued under subsection (2).
- (4) On the day on which this section comes into operation, section 4 of the *Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995* ceases to apply in relation to the Hydro-Electric Corporation in respect of regulated operations, in an electricity

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supply industry referred to in section 17(2)(a), (c) or (d), carried on in relation to the Bass Strait Islands.

- (5) The Regulator, with the approval of the Treasurer and the Minister, may –
- (a) by notice in writing to the Hydro-Electric Corporation, revoke a licence issued under subsection (2); or
 - (b) by notice in writing to the holder of a licence issued in accordance with subsection (6), revoke the licence.
- (6) If a licence that is revoked under subsection (5) is –
- (a) a licence to carry on operations in an electricity supply industry that is referred to in section 17(2)(a), the Regulator may issue to a person under section 19 a licence, to carry on such operations in relation to the Bass Strait Islands, that is subject to the condition specified in section 19B(2); or
 - (b) a licence to carry on operations in an electricity supply industry that is referred to in section 17(2)(c), the Regulator may issue to a person under section 19 a licence, to carry on such operations in

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relation to the Bass Strait Islands, that is subject to the condition specified in section 19B(2) and the condition specified in section 19B(3); or

(c) a licence to carry on operations in an electricity supply industry that is referred to in section 17(2)(d), the Regulator may issue to a person under section 19 a licence, to carry on such operations in relation to the Bass Strait Islands, that is subject to the condition specified in section 19B(2).

(7) Nothing in subsection (6) is to be taken to prevent the Regulator issuing under section 19 a licence that is not subject to the condition specified in section 19B(2) or the condition specified in section 19B(3).

(8) The Regulator may only issue a licence in accordance with subsection (6) with the approval of the Treasurer and the Minister and the applicant for the licence.

19B. Conditions of, and liabilities in respect of, certain licences in relation to Bass Strait Islands

(1) This section applies to –

(a) a licence issued under section 19A(2); and

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- (b) a licence issued in accordance with section 19A(6).
- (2) Without limiting the conditions to which a licence to which this section relates may be subject under this Act, such a licence is subject to the condition that it only authorises the carrying on in the Bass Strait Islands of the operations in an electricity supply industry to which the licence relates.
- (3) It is a condition of a licence to which this section relates, issued in respect of the electricity supply industry referred to in section 17(2)(c), that the holder of the licence must –
 - (a) continuously monitor the operation of the Bass Strait Islands power system; and
 - (b) control the input of electricity and the loads placed on the Bass Strait Islands power system to ensure that –
 - (i) the integrity of the Bass Strait Islands power system is maintained; and
 - (ii) the Bass Strait Islands power system operates efficiently, reliably and safely; and

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- (c) perform the functions in relation to the Bass Strait Islands that are assigned to the holder of the licence under the regulations or the Code; and
 - (d) exercise the powers in relation to the Bass Strait Islands that the holder of the licence is required to exercise under the regulations or the Code.
- (4) In performing, in relation to the Bass Strait Islands, the functions or powers referred to in subsection (3), the holder of a licence to which this section relates has, in addition to the powers referred to in subsection (3), any other power imposed or conferred on the holder of the licence by the regulations or the Code.
- (5) The holder of a licence to which this section relates is not liable for an act or omission, in relation to the Bass Strait Islands, that is done, or omitted to be done, in good faith, by –
- (a) the holder of the licence; or
 - (b) an employee or agent of the holder of the licence –

in the exercise or performance, or the purported exercise or performance, of a power or function, referred to in

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subsection (3) or (4), of the holder of the licence.

- (6) An employee or agent of the holder of a licence to which this section relates is not personally liable for an act, or omission, in relation to the Bass Strait Islands, that is done, or omitted to be done, in good faith, in the exercise or performance, or the purported exercise or performance, of a power or function, referred to in subsection (3) or (4), of the holder of the licence.

15. Section 22 amended (Conditions of licence)

Section 22 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(c) “and the relevant regulations” and substituting “and any regulation that applies to the electricity entity”;
- (b) by omitting from subsection (1)(f)(i) “*Electricity Ombudsman Act 1998*” and substituting “*Energy Ombudsman Act 1998*”;
- (c) by omitting from subsection (1)(f)(ii) “*Electricity Ombudsman Act 1998*” and substituting “*Energy Ombudsman Act 1998*”;

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- (d) by omitting from subsection (1)(f)(iii) “*Electricity Ombudsman Act 1998*” and substituting “*Energy Ombudsman Act 1998*”;
- (e) by omitting subsection (2) and substituting the following subsection:
 - (2) Without limiting subsection (1), the conditions of a licence that the Regulator may determine may include conditions of a prescribed kind.

16. Section 25 repealed

Section 25 of the Principal Act is repealed.

17. Part 3, Division 4 substituted

Division 4 of Part 3 of the Principal Act is repealed and the following Division is substituted:

Division 4 – Retailing of electricity to certain customers

38. Only Aurora Retail may retail electricity to non-contestable customers on mainland Tasmania

- (1) A person other than Aurora Retail must not sell, or offer to sell, electricity to a

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non-contestable customer at premises
situated on mainland Tasmania.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 000 penalty units; or
 - (b) an individual, a fine not exceeding 500 penalty units.
- (2) Subsection (1) does not apply, in relation to a non-contestable customer who is a move-in customer, within the meaning of the *National Energy Retail Law (Tasmania)*, until 3 months after the non-contestable customer becomes such a customer.
- (3) Subsection (1) does not apply in relation to –
- (a) a person to whom section 21 of the *National Energy Retail Law (Tasmania) Act 2012* applies; or
 - (b) a sale of electricity to which section 21 of the *National Energy Retail Law (Tasmania) Act 2012* applies or an offer to sell such electricity; or
 - (c) a person who is an exempt seller, within the meaning of the

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National Energy Retail Law (Tasmania), if the sale of electricity to which that subsection would otherwise apply is permitted, or not prohibited, by the terms of the exemption of the person.

- (4) A retailer authorisation under the National Energy Retail Law (Tasmania) is of no effect under that Law to the extent that it authorises, or purports to authorise, an authorised retailer to sell electricity to a customer in contravention of this section.

39. HEC not to sell electricity to certain customers on, or be authorised retailer for, mainland Tasmania

- (1) In this section –

related body corporate, in relation to the Hydro-Electric Corporation, means a person that, if the Hydro-Electric Corporation were a corporation within the meaning of the Corporations Act, would be a related body corporate of that corporation;

subsidiary, in relation to the Hydro-Electric Corporation, means a person that, if the Hydro-Electric

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Corporation were a corporation within the meaning of the Corporations Act, would be a subsidiary of that corporation.

- (2) The Hydro-Electric Corporation, a subsidiary of the Hydro-Electric Corporation and a related body corporate of the Hydro-Electric Corporation must not sell, or offer to sell, electricity to a customer at premises situated on mainland Tasmania, other than electricity that is generated by an electricity generating plant that is prescribed for the purposes of this section to be an historic electricity generating plant.

Penalty: Fine not exceeding 1 000 penalty units.

- (3) A retailer authorisation is of no effect to the extent that it authorises, or purports to authorise, the Hydro-Electric Corporation, a subsidiary of the Hydro-Electric Corporation, or a related body corporate of the Hydro-Electric Corporation, to sell electricity to a customer at premises situated on mainland Tasmania, other than electricity generated by an electricity generating plant that is prescribed for the purposes of this section to be an historic electricity generating plant.

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40. Standing offer prices

(1) Aurora Retail must fix the tariffs and charges that are to constitute its standing offer prices in respect of small customers.

(2) Except under a market retail contract, Aurora Retail must not –

(a) sell, or offer to sell, electricity to a small customer at a price; or

(b) require payment of a charge –

unless the price or charge is a tariff or charge fixed under subsection (1) or a tariff or charge as amended under subsection (4).

Penalty: Fine not exceeding 1 000 penalty units.

(3) A tariff or charge fixed under subsection (1), and a tariff or charge as amended under subsection (4), may specify different prices or charges for different classes of small customers but may not specify different tariffs or charges, in respect of different areas of Tasmania, for the same class of small customers.

(4) Aurora Retail may –

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- (a) amend a tariff or charge fixed under subsection (1) or a tariff or charge as amended under this subsection; or
 - (b) rescind a tariff or charge fixed under subsection (1), or a tariff or charge as amended under this subsection, and fix a new tariff or charge under subsection (1).
- (5) A tariff or charge fixed under subsection (1) and an amendment of such a tariff or charge under subsection (4) –
 - (a) must be consistent with this Act, the regulations and the Code; and
 - (b) must comply with any form specified in the regulations.
- (6) In fixing or amending a tariff or charge, Aurora Retail must comply with the requirements, if any, for the fixing or amending of tariffs or charges, set out in the regulations.
- (7) A tariff or charge, or an amendment or rescission of a tariff or charge, takes effect on the day specified in the tariff or charge or amendment or rescission of the tariff or charge.

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41. Approval of tariffs and charges for small customers

- (1) A tariff or charge may not be fixed under section 40(1), and an amendment of a tariff or charge may not be made under section 40(4), unless –
 - (a) a draft of the tariff or charge, or a draft amendment of the tariff or charge, has been approved by the Regulator under subsection (3); and
 - (b) the tariff or charge fixed, or the draft amendment made, is in the same terms as the draft of the tariff or charge, or the draft amendment of the tariff or charge, approved by the Regulator under subsection (3).
- (2) Aurora Retail may submit to the Regulator a draft tariff or charge or a draft amendment of a tariff or charge.
- (3) If a draft tariff or charge, or a draft amendment of a tariff or charge, is submitted to the Regulator under subsection (2), the Regulator must –
 - (a) approve, without modification, the draft tariff or charge or the draft amendment of the tariff or charge; or

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- (b) approve, with modification, the draft tariff or charge or the draft amendment of the tariff or charge; or
- (c) refuse to approve the draft tariff or charge or the draft amendment of the tariff or charge.

42. Tariffs, charges and conditions for Bass Strait Islands customers

- (1) A Bass Strait Islands tariff retailer must fix the tariffs, charges and conditions that are to constitute its prices, charges and conditions in respect of customers at premises on the Bass Strait Islands.
- (2) A Bass Strait Islands tariff retailer must not –
 - (a) sell, or offer to sell, electricity to a customer at premises on the Bass Strait Islands, at a price; or
 - (b) require payment of a charge by a customer at premises on the Bass Strait Islands; or
 - (c) impose a condition on the sale of electricity to a customer at premises in the Bass Strait Islands –

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unless the price, charge or condition is a tariff, charge or condition fixed under subsection (1) or a tariff, charge or condition as amended under subsection (4).

Penalty: Fine not exceeding 1 000 penalty units.

- (3) A tariff, charge or condition fixed under subsection (1), and a tariff or charge as amended under subsection (4), may specify different prices, charges or conditions for different classes of customers at premises on the Bass Strait Islands but may not specify different tariffs, charges or conditions, in respect of different areas of the Bass Strait Islands, for the same class of customers.
- (4) A Bass Strait Islands tariff retailer may –
- (a) amend a tariff, charge or condition fixed under subsection (1) or a tariff or charge as amended under this subsection; or
 - (b) rescind a tariff, charge or condition fixed under subsection (1), or a tariff, charge or condition as amended under this subsection, and fix a new tariff, charge or condition under subsection (1).

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- (5) A tariff, charge or condition fixed under subsection (1) and any amendment of a tariff, charge or condition under subsection (4) –
 - (a) must be consistent with this Act, the regulations and the Code; and
 - (b) must comply with any form specified in the regulations.
- (6) In fixing or amending a tariff, charge or condition, a Bass Strait Islands tariff retailer must comply with the requirements, if any, for the fixing or amending of tariffs, charges or conditions, set out in the regulations.
- (7) A tariff, charge or condition, or an amendment of a tariff, charge or condition, takes effect on the day specified in the tariff, charge or condition or amendment of the tariff, charge or condition.
- (8) A Bass Strait Islands tariff retailer must, before a tariff, charge or condition, or an amendment of a tariff, charge or condition, in respect of premises on the Bass Strait Islands takes effect –
 - (a) ensure the tariff, charge or condition, or the amendment of a tariff, charge or condition, is published in a newspaper

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circulating generally in the supply area; and

(b) take other reasonable steps to bring changes in prices, charges and conditions to the attention of customers affected by the changes; and

(c) comply with any further requirements, relating to the publication of tariffs, charges or conditions, specified in the Code.

(9) A Bass Strait Islands tariff retailer must, at the request of a customer at premises on the Bass Strait Islands, provide to the customer a copy of the entity's current tariff, charges or conditions in relation to such premises.

43. Approval of tariffs, charges and conditions for Bass Strait Islands customers

(1) A tariff, charge or condition may not be fixed under section 42(1), and an amendment of a tariff, charge or condition may not be made under section 42(4), unless –

(a) a draft of the tariff, charge or condition, or a draft of the amendment of the tariff, charge or condition, has been approved

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by the Regulator under
subsection (3); and

- (b) the tariff, charge or condition fixed, or the draft amendment made, is in the same terms as the draft of the tariff, charge or condition, or the draft amendment of the tariff, charge or condition, approved by the Regulator under subsection (3).
- (2) A Bass Strait Islands tariff retailer may submit to the Regulator a draft tariff, charge or condition or a draft amendment of a tariff, charge or condition.
- (3) If a draft tariff, charge or condition, or a draft amendment of a tariff, charge or condition, is submitted to the Regulator under subsection (2), the Regulator must –
- (a) approve, without modification, the draft tariff, charge or condition or the draft amendment of the tariff, charge or condition; or
- (b) approve, with modification, the draft tariff, charge or condition or the draft amendment of the tariff, charge or condition; or
- (c) refuse to approve the draft tariff, charge or condition or the draft

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amendment of the tariff, charge
or condition.

43A. Regulator may charge for certain expenses

- (1) The Regulator may send a notice to Aurora Retail specifying –
 - (a) the amount of the reasonable expenses incurred by the Regulator in –
 - (i) determining under section 41 whether to approve a tariff or charge or an amendment of a tariff or charge; and
 - (ii) ensuring compliance by Aurora Retail with section 40; and
 - (iii) performing the Regulator's functions, and exercising its powers, under the Act in respect of the regulation of the provision of services and the sale of electricity to non-contestable customers by Aurora Retail; and

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- (b) the date on or before which the expenses are to be paid by Aurora Retail.
- (2) A date specified in a notice to Aurora Retail under subsection (1) is not to be earlier than 30 days after the notice is sent to Aurora Retail.
- (3) Aurora Retail is liable to pay to the Regulator, on the date specified, in a notice under subsection (1) sent to Aurora Retail, as the date by which the amount is to be paid, the amount of the reasonable expenses specified in the notice.
- (4) The Regulator may recover from Aurora Retail, in a court of competent jurisdiction, as a debt due and owing, an amount that Aurora Retail is liable to pay under subregulation (3).

43B. Only local area retailer may sell unmetered electricity

- (1) An authorised retailer, other than a local area retailer, within the meaning of the National Energy Retail Law (Tasmania), must not, for the prescribed period, sell electricity to persons or a class of persons –

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- (a) whose consumption of that electricity is not metered; and
 - (b) who is a member of a class of persons that is prescribed.
- (2) Regulations may prescribe a class of persons for the purposes of this section by reference to –
- (a) the purpose for which the electricity is used; or
 - (b) the quantity of electricity used; or
 - (c) the period of use; or
 - (d) the place of supply; or
 - (e) any other factor specified in the regulations.

18. Section 44 amended (Restrictions on re-supply)

Section 44(3) of the Principal Act is amended by omitting “section 51 of the *Trade Practices Act 1974*” and substituting “section 51 of the *Competition and Consumer Act 2010*”.

19. Part 3, Division 8A repealed

Division 8A of Part 3 of the Principal Act is repealed.

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20. Section 49A amended (Tasmanian Electricity Code)

Section 49A of the Principal Act is amended as follows:

- (a) by omitting paragraph (f) from subsection (3) and substituting the following paragraphs:
 - (f) supply of electricity to customers;
 - (fa) sale of electricity to customers on the Bass Strait Islands;
- (b) by omitting from subsection (3)(n) “tariffs” and substituting “the regulation of pricing”;
- (c) by omitting paragraphs (b) and (c) from subsection (7) and substituting the following paragraph:
 - (b) a tribunal or committee established under the Code or this Act.

21. Section 49F amended (Application of Commonwealth Competition and Consumer Act 2010 and the Competition Code)

Section 49F(2) of the Principal Act is amended as follows:

- (a) by omitting “section 51 of the *Trade Practices Act 1974*” and substituting

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“section 51 of the *Competition and
Consumer Act 2010*”;

- (b) by omitting paragraph (b);
- (c) by omitting from paragraph (d) “, the Code and any vesting agreement entered into” and substituting “or the Code”.

22. Section 114D amended (Injunction)

Section 114D(4)(a) of the Principal Act is amended by omitting “, the regulations or the Code” and substituting “or the regulations”.

23. Section 122 amended (Regulations)

Section 122 of the Principal Act is amended as follows:

- (a) by inserting in subsection (2A)(a) “or authorised retailers” after “entities”;
- (b) by inserting in subsection (2A)(b) “or authorised retailers” after “entities”;
- (c) by inserting in subsection (2A)(b) “sale or” after “for the”;
- (d) by inserting in subsection (2A)(f) “and authorised retailers” after “entities”;
- (e) by inserting in subsection (2B)(a) “or authorised retailers” after “entities”;

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- (f) by inserting in subsection (2B)(a) “sale or” after “for the”;
- (g) by inserting in subsection (2B)(b) “sale or” after “of the”;
- (h) by inserting in subsection (2B)(b) “or authorised retailers” after “entities”;
- (i) by inserting in subsection (2B)(c) “or authorised retailers” after “entities”;
- (j) by inserting in subsection (2B)(d) “or authorised retailers” after “entities”;
- (k) by inserting the following subsection after subsection (2B):
 - (2BAA) Without limiting subsection (1), the regulations may provide for the imposition, on electrical entities that are distributors and that hold retail authorisations, of requirements to ring fence, for accounting purposes, certain activities of such entities.
- (l) by omitting subsection (2BB);
- (m) by inserting the following paragraph before paragraph (a) in subsection (2BD):
 - (aa) the determination as to whether a customer is a contestable

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customer or a non-contestable
customer; and

(n) by omitting paragraph (b) from subsection (2BD) and substituting the following paragraph:

(b) the placing on an electricity entity, an authorised retailer, the Regulator, or another person, of requirements in relation to a customer as a contestable customer or as a non-contestable customer; and

(o) by omitting from subsection (2BE) “or (2BD)(b)”;

(p) by inserting the following paragraph after paragraph (bc) in subsection (2C):

(bd) any of the provisions of the
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**PART 4 – ENERGY OMBUDSMAN ACT 1998
AMENDED**

24. Principal Act

In this Part, the *Energy Ombudsman Act 1998** is referred to as the Principal Act.

25. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by inserting after paragraph (a) in the definition of *energy entity* the following paragraphs:

- (ab) a retailer within the meaning of the National Energy Retail Law (Tasmania);
or
- (ac) an exempt seller within the meaning of the National Energy Retail Law (Tasmania); or
- (ad) a person to whom, or a person who sells electricity to which, section 21 of the *National Energy Retail Law (Tasmania) Act 2012* applies;

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Part 5 – Repeal

PART 5 – REPEAL

26. Repeal

This Act is repealed on the ninetieth day from the day on which all of the provisions of this Act commence.