

TASMANIA

NATIONAL ENERGY RETAIL LAW (TASMANIA) BILL 2012

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**NATIONAL ENERGY RETAIL LAW (TASMANIA)
BILL 2012**

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

A BILL FOR

An Act to establish a national energy customer framework for the regulation of the retail supply of energy to customers, to make provision for the relationship between the distributors of energy and the consumers of energy, to make certain transitional arrangements and for other purposes

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) Act 2012*.

2. Commencement

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

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

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Part 1 – Preliminary

3. Interpretation

(1) In this Act –

National Energy Retail Law (Tasmania)
means the provisions applying in this
jurisdiction because of section 4.

(2) Terms used in this Act and also the National Energy Retail Law set out in the Schedule to the *National Energy Retail Law (South Australia) Act 2011* of South Australia have the same meanings in this Act as they have in that Law.

(3) This section does not apply to the extent that the context or subject matter otherwise indicates or requires.

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**PART 2 – ADOPTION OF NATIONAL ENERGY
RETAIL LAW**

4. Application of National Energy Retail Law

The National Energy Retail Law, as amended from time to time, set out in the Schedule to the *National Energy Retail Law (South Australia) Act 2011* of South Australia –

- (a) applies as a law of this jurisdiction, with the modifications set out in Part 4; and
- (b) as so applying may be referred to as the National Energy Retail Law (Tasmania); and
- (c) so applies as if it were part of this Act.

5. Application of regulations under National Energy Retail Law

The regulations, made under the National Energy Retail Law, as amended from time to time –

- (a) apply as regulations in force for the purposes of the National Energy Retail Law (Tasmania) with the modifications, if any, set out in regulations under section 10(6); and

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- (b) as so applying may be referred to as the National Energy Retail Regulations (Tasmania).

6. Interpretation of certain expressions

In the National Energy Retail Law (Tasmania) and the National Energy Retail Regulations (Tasmania) –

National Energy Retail Law or *this Law* means the National Energy Retail Law (Tasmania);

the jurisdiction or *this jurisdiction* means Tasmania.

7. Exclusion of legislation of this jurisdiction and South Australia

- (1) The *Acts Interpretation Act 1915* of South Australia, and other Acts of South Australia, do not apply to –
 - (a) the National Energy Retail Law, set out in the Schedule to the *National Energy Retail Law (South Australia) Act 2011* of South Australia, applied as a law of this jurisdiction; or
 - (b) any regulations, made under the National Energy Retail Law, applied as regulations for the purposes of the National Energy Retail Law (Tasmania).

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- (2) The *Acts Interpretation Act 1931* and the *Subordinate Legislation Act 1992* do not apply to –
- (a) the National Energy Retail Law (Tasmania) or the instruments made under that Law; or
 - (b) the National Energy Retail Regulations (Tasmania) or the instruments made under those regulations.
- (3) To remove any doubt, it is declared that –
- (a) subsection (2)(a) does not limit the application of the *Acts Interpretation Act 1931* to –
 - (i) the provisions of this Act other than the National Energy Retail Law (Tasmania); or
 - (ii) instruments made under the provisions of this Act other than the National Energy Retail Law (Tasmania); and
 - (b) subsection (2)(b) does not limit the application of the *Subordinate Legislation Act 1992* to instruments made under the provisions of this Act other than the National Energy Retail Law (Tasmania).

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Part 3 – Related Matters

PART 3 – RELATED MATTERS

8. Extension of AER functions and powers

- (1) In this section, a reference to the applicable provisions is a reference to –
 - (a) Parts 8, 12, 13, 14 and 15 of the National Energy Retail Law (Tasmania); and
 - (b) any other provision of the National Energy Retail Law (Tasmania) that is prescribed by regulations for the purpose of this subsection.
- (2) The applicable provisions apply as if a reference, in any such provision, to *this Law* or to the *National Energy Retail Law*, included (except in relation to a person or a sale of electricity to which section 21 applies) a reference to –
 - (a) this Part, Part 4 (except section 21) and Part 5 of this Act; and
 - (b) any other provision of this Act, or of regulations made under this Act, prescribed by regulations for the purpose of this paragraph.
- (3) The regulations may modify any applicable provision in so far as it applies to –
 - (a) a provision of this Act referred to in subsection (2)(a); or

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- (b) a provision prescribed by regulations for the purpose of subsection (2)(b).
 - (4) Without limiting subsection (2) or Division 2 of Part 8 of the National Energy Retail Law (Tasmania), the AER may require to be provided or produced by a person under that Division information, or a document, that relates to a matter that arose before the commencement of this section.

9. Extension of reading-down provision

- (1) Section 320 of the National Energy Retail Law (Tasmania) has effect in relation to the operation of any provision of this Act as if the provision formed part of that Law.
- (2) Subsection (1) does not limit the effect that a provision would validly have apart from the subsection.

10. Regulation-making power for purposes of National Energy Retail Law (Tasmania), &c.

- (1) The Governor may make –
 - (a) such regulations, including regulations constituting local instruments, as are contemplated by the National Energy Retail Law (Tasmania), or an instrument made under that Law, as being made under this Act as the application Act of this jurisdiction; and

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- (b) regulations for or in respect of any other matter or thing that is required or permitted by this Act to be prescribed or that is necessary to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), regulations made under that subsection may provide for or in respect of –
 - (a) the provision of services to customers by distributors, including requirements and standards to be met before and while services are being provided; and
 - (b) the payment of compensation to customers by distributors when standards referred to in paragraph (a) are not met.
- (3) In addition, the Governor may make regulations that modify the application of the National Energy Retail Rules, to the extent they apply as part of the law of this jurisdiction.
- (4) A modification under subsection (3) may include the insertion, omission, substitution or relocation of provisions, words or matter.
- (5) In addition, the Governor may make regulations of an application, savings or transitional nature relating to the transition from the application of provisions of the energy laws to the application of provisions of –
 - (a) this Act (including the National Energy Retail Law (Tasmania)); and

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- (b) the National Energy Retail Rules to the extent they apply as part of the law of this jurisdiction.
- (6) A regulation may modify the application of the National Regulations, to the extent they apply as part of the law of this jurisdiction, to remove any inconsistency between –
 - (a) a regulation made under subsection (5) and a provision of the National Regulations that is of an application, savings or transitional nature; or
 - (b) a provision in Part 5 and a provision of the National Regulations that is of an application, savings or transitional nature.
- (7) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (8) The regulations may authorise any matter to be from time to time determined, applied or regulated by any person or body specified in the regulations.
- (9) The regulations may require an action to be taken in accordance with another instrument made under the National Energy Retail Law (Tasmania).

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11. 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 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 this Act as a law of this jurisdiction; 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 Energy Retail Law (Tasmania);

(ii) the National Energy Retail Regulations (Tasmania);

(iii) this Act;

(iv) an instrument made or having effect under this Act; and

(c) where the making of the instrument or decision would be so authorised subject

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to the satisfaction of any conditions or other requirements (for example, consultation or publication requirements), the AER has done anything 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:
 - (i) appointments;
 - (ii) determinations;
 - (iii) approvals.

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Part 3 – Related Matters

12. AER – authorisation of preparatory steps

(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 Energy Retail Law (Tasmania);
- (ii) the National Energy Retail Regulations (Tasmania);
- (iii) this Act;
- (iv) 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 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 this Act as a law of this jurisdiction.

(2) For the purposes of the authorising law, the AER is taken to have complied with the requirement to take the preparatory step.

PART 4 – MODIFICATIONS OF LAW

13. Interpretation

In this Part –

Aurora Retail has the meaning it has in the
Electricity Supply Industry Act 1995;

South Australian Energy Retail Law means
the National Energy Retail Law, as
amended from time to time, set out in the
Schedule to the *National Energy Retail
Law (South Australia) Act 2011* of South
Australia.

14. Law does not apply in relation to gas

The South Australian Energy Retail Law, as that
Law applies as a law of this jurisdiction, does
not apply in relation to gas.

15. Law only applies to premises connected, &c., to national electricity grid

The South Australian Energy Retail Law, as that
Law applies as a law of this jurisdiction, only
applies in relation to the sale or supply of
electricity to customers whose premises are
connected, or are to be connected, to the
interconnected national electricity system within
the meaning of the NEL.

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Part 4 – Modifications of Law

16. Standing offer prices

- (1) For the purposes of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, the standing offer prices are, in respect of Aurora Retail, the tariffs and charges fixed, or as amended, under section 40 of the *Electricity Supply Industry Act 1995*.
- (2) Despite subsection (1), if –
 - (a) a reference to the standing offer prices in relation to a customer is made in the South Australian Energy Retail Law; and
 - (b) the customer is a customer of Aurora Retail; and
 - (c) the tariffs and charges fixed, or as amended, under section 40 of the *Electricity Supply Industry Act 1995* vary in relation to different classes of customers –

for the purposes of that Law, as that Law applies as a law of this jurisdiction, the reference to the standing offer prices is to be taken, in relation to the customer, to be a reference to the tariffs and charges, fixed, or as amended, under section 40 of the *Electricity Supply Industry Act 1995*, that apply in relation to the class of customers of which the customer is a member.

17. Late payment fees

- (1) In this section –

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pensioner means the holder of a pensioner concession card issued under the *Social Security Act 1991* of the Commonwealth or as a fringe benefit under the *Veterans' Entitlements Act 1986* of the Commonwealth.

- (2) Despite anything to the contrary in the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, a retailer must waive a fee or charge for the late payment by a customer of an amount owed by the customer to the retailer for electricity supplied to the customer, if –
- (a) the customer holds a health care card within the meaning of the *Social Security Act 1991* of the Commonwealth; or
 - (b) the customer is receiving, as a pensioner, a concession on the customer's accounts with the retailer; or
 - (c) the customer is on a payment plan; or
 - (d) the customer has died, the account with the customer has been suspended or the amount owed is set out in a final account to the customer.

18. Small market offer customers

Section 31 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, does not apply in this jurisdiction.

19. Prepayment meter systems

- (1) The regulations may prescribe the provisions, of energy laws, that –
 - (a) are not to apply, to prepayment meter systems of a kind specified in the regulations, for the purposes of section 58 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction; or
 - (b) with the modifications specified in the regulations, are to apply, to prepayment meter systems of a kind specified in the regulations, for the purposes of section 58 of that Law, as that Law applies as a law of this jurisdiction.
- (2) If a regulation is made for the purpose of subsection (1) specifying that a provision of an energy law is not to apply to prepayment meter systems of a kind specified in the regulations, the provision is not to be taken, for the purposes of section 58 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, to be a provision of an energy law for the purposes of that section in relation to such a prepayment meter system.
- (3) If a regulation for the purposes of subsection (1) specifying that a provision of an energy law, as modified in the regulation, is to apply to prepayment meter systems of a kind specified in the regulations, the provision is only to be taken for the purposes of section 58 of the South

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Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, to be a provision of an energy law for the purposes of that section as the provision is so modified in the regulation.

- (4) Regulations for the purposes of this section may impose on the holder of a retailer authorisation an obligation to report to the Regulator, within the meaning of the *Electricity Supply Industry Act 1995*, in respect of matters relating to prepayment meter systems.

20. Consumption thresholds

- (1) The regulations may determine, or may make provision for determining, the upper consumption thresholds for the purposes of section 5 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction.
- (2) If the upper consumption thresholds for the purposes of section 5 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, are determined in or under regulations made for the purposes of subsection (1), the upper consumption thresholds so determined are, despite section 6 of the South Australian Energy Retail Law, the upper consumption thresholds for the purposes of that Law, as that Law applies as a law of this jurisdiction.

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- (3) Without limiting the effect of subsection (1), regulations made for the purposes of that subsection may differ in their application to different classes of business customers or different regulatory requirements, or both.
- (4) A provision made by the National Regulations under section 6 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, is of no effect in this jurisdiction to the extent that the provision is inconsistent with a regulation made for the purposes of subsection (1).

21. Application of Law to certain sellers of electricity

- (1) Subject to this section, this section applies in relation to persons who are members of the following classes of persons:
 - (a) persons retailing electricity who do not use, beyond the point of purchase of the electricity, any facilities that are used by another person holding a licence under the *Electricity Supply Industry Act 1995* authorising the transmission or distribution of electricity;
 - (b) persons who sell electricity only to –
 - (i) a retailer; or
 - (ii) a person who holds a licence under the *Electricity Supply Industry Act 1995* authorising the

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sale of electricity in the Bass
Strait Islands.

- (2) This section also applies in relation to sales of electricity that are within any of the following classes of sales of electricity:
- (a) the sale of electricity generated by an electricity generating plant that is prescribed under the *Electricity Supply Industry Act 1995* to be an electricity generating plant of historic significance;
 - (b) the sale of electricity by the owner of a caravan park to a person occupying a site within the park;
 - (c) the sale of electricity by the owner of a building to a person occupying part of the building;
 - (d) the sale of electricity by the owner or manager of a shopping centre to tenants of the centre.
- (3) Section 88 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, does not apply in this jurisdiction in respect of –
- (a) persons who are members of a class of persons to which this section applies; or
 - (b) sales of electricity of a class of sales of electricity to which this section applies –

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until this section ceases to apply in relation to that class of person or sales.

- (4) An exemption may not be issued under section 110 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, in respect of –
- (a) persons who are members of a class of persons to which this section applies; or
 - (b) a sale of electricity that is a sale of a class to which this section applies –

until this section ceases to apply in relation to that class of persons or sales.

- (5) The Governor, by order, may declare that this section ceases to apply in relation to a class of persons, or a class of sales, that is specified in the notice, on and from the date specified in the order as the day on and from which this section ceases to apply to that class.
- (6) The Minister must cause an order made under subsection (5) to be laid before each House of Parliament within the first 10 sitting-days of the House after it is made.
- (7) An order made under subsection (5) is of no effect until it has been approved by both Houses of Parliament.
- (8) For the purposes of subsection (7), a House of Parliament is taken to have approved an order made under subsection (5), a copy of which has been laid on the table of that House, if –

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- (a) it is approved by that House; or
 - (b) at the expiration of 15 sitting-days after it was laid on the table of that House, no notice has been given of a motion to disallow it or, if such notice has been given, the notice has been withdrawn or negatived; or
 - (c) where a notice of a motion to disallow it is given during that period of 15 sitting-days, the notice is, after the expiration of that period, withdrawn or negatived.
- (9) If an order made under subsection (5) has effect in relation to a class of persons or sales, this section ceases to apply in relation to that class from the date specified in the order as the date on and from which this section ceases to apply to that class.

22. Small compensation claims

- (1) Subject to this section, Part 7 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, does not apply in this jurisdiction.
- (2) The Governor, by order, may declare that Part 7 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, applies in this jurisdiction on and from the date specified in the order as the day on and from which that Part is to apply in this jurisdiction.

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- (3) The Minister must cause an order made under subsection (2) to be laid before each House of Parliament within the first 10 sitting-days of the House after it is made.
- (4) An order made under subsection (2) is of no effect until it has been approved by both Houses of Parliament.
- (5) For the purposes of subsection (4), a House of Parliament is taken to have approved an order made under subsection (2), a copy of which has been laid on the table of that House, if –
 - (a) it is approved by that House; or
 - (b) at the expiration of 15 sitting-days after it was laid on the table of that House, no notice has been given of a motion to disallow it or, if such notice has been given, the notice has been withdrawn or negatived; or
 - (c) where a notice of a motion to disallow it is given during that period of 15 sitting-days, the notice is, after the expiration of that period, withdrawn or negatived.
- (6) If an order made under subsection (2) has effect, Part 7 of the South Australian Energy Retail Law, as that Law applies as a law of this jurisdiction, applies, and forms part of the National Energy Retail Law (Tasmania), from the date specified in the order as the date on and from which the Part is to apply in this jurisdiction.

**PART 5 – SAVINGS AND TRANSITIONAL
PROVISIONS**

Division 1 – Interpretation

23. Interpretation of Part 5

In this Part –

commencement day means the day on which this Part commences;

connection and supply contract means a connection and supply contract, within the meaning of regulation 17A of the contestable customer regulations;

contestable customer regulations means the *Electricity Supply Industry (Contestable Customer) Regulations 2005* as in force immediately before the commencement day;

customer has the meaning it has in the ESI Act;

deemed distribution contract means a contract that, immediately before the commencement day, applied under regulation 17B of the contestable customer regulations;

ESI Act means the *Electricity Supply Industry Act 1995* as in force immediately before the commencement day;

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former market contract means a contract, for the sale of electricity, in force immediately before the commencement day, that is not –

- (a) a contract formed under section 39A of the ESI Act; or
- (b) a former standing offer contract;

former prepayment meter market retail contract means a former market contract that relates to the use by a customer of a prepayment meter;

former standing offer contract means a standing offer contract within the meaning of the contestable customer regulations;

large offer contestable customer means a person who is, immediately before the commencement day, a large offer contestable customer within the meaning of the contestable customer regulations;

National Energy Retail Rules means the National Energy Retail Rules, as modified under section 10, to the extent they apply as part of the law of this jurisdiction;

non-contestable customer means a person who is, immediately before the commencement day, a non-contestable customer within the meaning of the ESI Act;

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premises includes an electrical installation within the meaning of the ESI Act;

retailer means a person who –

- (a) immediately before the commencement day, holds a licence under the ESI Act authorising the retailing of electricity; and
- (b) holds a retailer authorisation on the commencement day;

standing offer contestable customer means a person who is, immediately before the commencement day, a standing offer contestable customer within the meaning of the contestable customer regulations;

tariff contract means a contract –

- (a) that is entered into by a customer with a retailer, within the meaning of the ESI Act, for the sale and supply of electricity to the customer at a price, and on conditions, fixed, or as amended, under section 38 of the ESI Act; or
- (b) that is a former standing offer contract;

tariff customer means a person who is, immediately before the commencement

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day, a customer in relation to premises to which a tariff contract applies;

tariff customer regulations means the *Electricity Supply Industry (Tariff Customers) Regulations 2008* as in force immediately before the commencement day.

24. Application of section 16 of *Acts Interpretation Act 1931*

- (1) Subject to subsection (2), nothing in this Part is to be taken to limit the application of section 16 of the *Acts Interpretation Act 1931* in relation to a person, matter or circumstance to which this Part applies.
- (2) If a provision of section 16 of the *Acts Interpretation Act 1931* is inconsistent with a provision of this Part, the provision of that section does not, to the extent of the inconsistency, apply in relation to a person, matter or circumstance to which the provision of this Part applies.

Division 2 – Customers on tariff contracts

25. Tariff contracts between customers and retailers

- (1) Subject to this section, if a tariff contract between a customer and a retailer applies in relation to premises immediately before the commencement day –

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- (a) the tariff contract is terminated on the commencement day; and
 - (b) a standard retail contract in relation to the premises is to be taken to be entered into, on the commencement day, between the customer and the retailer; and
 - (c) a security deposit, within the meaning of the tariff customer regulations, paid by the customer in relation to the premises is to be taken to be a security deposit under the National Energy Retail Rules that is provided by the customer in accordance with a requirement of the retailer made in accordance with those Rules; and
 - (d) a direct debit authorisation, given by the customer in relation to the tariff contract, that is in force immediately before the commencement day is to be taken, except to the extent that it relates to a period before the commencement day, to be a direct debit authorisation given for the purposes of the standard retail contract; and
 - (e) a payment plan entered into by the customer in relation to the tariff contract is to be taken, except to the extent that the plan relates to a period before the commencement day, to be a payment plan entered into under the standard retail contract; and

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- (f) the amount of any payment in advance paid by the customer, before the commencement day, in relation to the premises may be applied by the retailer after that day to satisfy a liability of the customer, in relation to the premises, that arose before or after that day; and
 - (g) a requirement, under the tariff contract, to make a payment in advance, which requirement would, but for the tariff contract being terminated under this section, arise after the commencement day, is to be taken to be a requirement in force under the standard retail contract.
- (2) Despite subsection (1), if a matter, relating to a tariff contract to which a customer was a party, was the subject of a complaint made, or a dispute entered into, under the contract before the commencement day, the matter is to continue to be dealt in accordance with that contract as if the contract continued to have effect.
- (3) Despite subsection (1), after the commencement day –
 - (a) a customer who was, immediately before the commencement day, a party to a tariff contract in relation to premises may make a complaint in relation to a matter, or dispute a matter, that arose under the contract before that day; and
 - (b) if a matter arose in part under the tariff contract and in part under the standard

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retail contract in relation to the premises,
a customer who was a party to the tariff
contract may –

- (i) make a complaint in relation to
all of the matter; or
- (ii) raise a dispute in relation to all of
the matter –

as if all of the matter arose under the
tariff contract and that contract continued
to have effect after the commencement
day; and

- (c) a complaint or dispute made or raised in
accordance with this subsection is to be
dealt with in accordance with the tariff
contract as if the contract continued to
have effect after the commencement day.

**26. Contracts between distributors and customers on
tariff contracts**

- (1) Subsection (2) applies in relation to premises if,
immediately before the commencement day –
 - (a) there is, in relation to the premises, a
tariff contract between a retailer and a
customer who is not a large offer
contestable customer in relation to the
premises; and
 - (b) there is no other contract, in relation to
the premises, that is a connection and
supply contract.

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- (2) If this subsection applies in relation to premises, the customer and the distributor in relation to the premises are to be taken to have, on the commencement day, entered into, in relation to the premises, the deemed standard connection contract that is published by the distributor under section 69 of the National Energy Retail Law (Tasmania).
- (3) Subsection (4) applies in relation to premises if, immediately before the commencement day –
 - (a) there is, in relation to the premises, a tariff contract between a retailer and a customer who is not a large offer contestable customer in relation to the premises; and
 - (b) there is another contract, in relation to the premises, that is a connection and supply contract.
- (4) If this subsection applies in relation to premises –
 - (a) the other contract, referred to in subsection (3)(b), is, on and from the commencement day, to be taken to be a negotiated connection contract, in relation to the premises, that complies with the requirements of Part 5A of the National Electricity Rules; and
 - (b) the distributor is to be taken to have complied, in relation to the negotiated connection contract, with section 78 of

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the National Energy Retail Law
(Tasmania).

***Division 3 – Customers, other than large offer contestable
customers, on former market contracts***

27. Former market contracts between retailers and customers

- (1) This subsection applies to a former market contract that –
 - (a) is not a former prepayment meter market retail contract; and
 - (b) immediately before the commencement day, applies, in relation to premises, between a retailer and a person who is not a large offer contestable customer in relation to the premises.
- (2) A former market contract, in relation to premises, to which subsection (1) applies is, on and from the commencement day, to be taken to be a market retail contract in relation to the premises.
- (3) If a term, or condition, of a contract that is to be taken under subsection (2) to be a market retail contract –
 - (a) is inconsistent with a provision of the National Energy Retail Rules that is a minimum requirement for market retail contracts; and

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- (b) confers on a customer a right that is greater, or imposes on a customer an obligation that is less onerous, than may be conferred by a term or condition that is consistent with the provision –

then, despite anything to the contrary in the National Energy Retail Law (Tasmania) or those Rules, the term or condition of the market retail contract continues to have effect and the provision is, to the extent of the inconsistency, of no effect in relation to the contract.

28. Contracts between distributors and customers on former market contracts

- (1) Subsection (2) applies to a connection and supply contract that, immediately before the commencement day, applies in relation to premises, if, immediately before the commencement day –
 - (a) a former market contract that is not a prepayment meter market retail contract applies in relation to the premises; and
 - (b) the customer in respect of the premises is not a large offer contestable customer in relation to the premises.
- (2) If this subsection applies to a connection and supply contract in relation to premises –
 - (a) the contract is, on and from the commencement day, to be taken to be a

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- negotiated connection contract, in relation to the premises, that complies with the requirements of Part 5A of the National Electricity Rules; and
- (b) the distributor is to be taken to have complied, in relation to the negotiated connection contract, with section 78 of the National Energy Retail Law (Tasmania).
- (3) Subsection (4) applies in relation to premises if, immediately before the commencement day, a former market contract applies in relation to the premises in respect of a customer who is not a large offer contestable customer in relation to the premises.
- (4) If, immediately before the commencement day, a deemed distribution contract applies, in relation to premises to which this subsection applies, between a distributor and a customer –
- (a) the deemed distribution contract is terminated on the commencement day; and
- (b) the customer and the distributor are to be taken to have, on the commencement day, entered into, in relation to the premises, the deemed standard connection contract that is published by the distributor under section 69 of the National Energy Retail Law (Tasmania).

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29. Prepayment meter market retail contracts between retailers and customers

- (1) A former prepayment meter market retail contract, in relation to premises, between a retailer and a person who is not a large offer contestable customer in relation to the premises is, on and from the commencement day, to be taken to be a prepayment meter market retail contract in relation to the premises.
- (2) If a term or condition, of a prepayment meter market retail contract to which subsection (1) applies –
 - (a) is inconsistent with a provision of the National Energy Retail Rules that is a minimum requirement for market retail contracts; and
 - (b) confers on a customer a right that is greater, or imposes on a customer an obligation that is less onerous, than may be conferred by a term or condition that is consistent with the provision –

then, despite anything to the contrary in the National Energy Retail Law (Tasmania) or those Rules, the term or condition of the prepayment meter market retail contract continues to have effect and the provision is, to the extent of the inconsistency, of no effect in relation to the contract.

30. Contracts between distributors and customers on former prepayment meter market retail contracts

If, immediately before the commencement day, there is a former prepayment meter market retail contract in force, in relation to premises, between a customer and a retailer –

- (a) any former contract, in relation to the premises, between the customer and a distributor is terminated on the commencement day; and
- (b) the customer and the distributor are to be taken to have, on the commencement day, entered into, in relation to the premises, the deemed standard connection contract that is published by the distributor under section 69 of the National Energy Retail Law (Tasmania).

Division 4 – Large offer contestable customers

31. Former market contracts with retailers

The repeal of section 40 of the ESI Act by the *National Energy Retail Law (Tasmania) (Consequential Amendments) Act 2012* does not affect a former market contract that applies in relation to premises, immediately before the commencement day, between a retailer and a customer who is a large offer contestable customer in relation to the premises.

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32. Contracts between distributors and customers

(1) A connection and supply contract that, immediately before the commencement day –

(a) applies in relation to premises in respect of a customer who is a large offer contestable customer in relation to the premises; and

(b) is not a deemed distribution contract –

continues to have effect until the contract is terminated in accordance with the national energy retail legislation or the contract.

(2) If –

(a) a deemed distribution contract between a distributor in relation to premises and a customer who is a large offer contestable customer in relation to the premises applies in relation to the premises immediately before the commencement day; and

(b) there is a deemed AER approved standard connection contract under section 70(6) of the National Energy Retail Law (Tasmania) that applies to the supply of electricity to such customers –

the deemed distribution contract is terminated on the commencement day and the customer and the distributor are taken to have, on the commencement day, entered into a contract, in relation to the premises, that is in accordance

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with the deemed AER approved standard connection contract that applies to the supply of electricity to such customers.

(3) If –

- (a) a deemed distribution contract between a distributor in relation to premises and a customer who is a large offer contestable customer in relation to the premises applies in relation to the premises immediately before the commencement day; and
- (b) there is no relevant AER approved standard connection contract under section 70(6) of the National Energy Retail Law (Tasmania) that applies to the supply of electricity to such customers –

the deemed distribution contract is terminated on the commencement day and the customer and the distributor are to be taken to have, on the commencement day, entered into, in relation to the premises, the deemed standard connection contract that is published by the distributor under section 69 of the National Energy Retail Law (Tasmania).

PART 6 – MISCELLANEOUS

33. Provision of certain information and assistance is authorised

(1) In this section –

Regulator has the meaning it has in the
Electricity Supply Industry Act 1995.

(2) Despite any other Act, the Regulator is authorised, on its own initiative or at the request of the AER –

(a) to provide the AER with the information (including information given in confidence) in the possession or control of the Regulator that is reasonably required by the AER for the purposes of –

(i) this Act; or

(ii) the regulations; or

(iii) the National Energy Retail Law (Tasmania); or

(iv) an instrument made under the National Energy Retail Law (Tasmania); and

(b) to provide the AER with any other assistance that is reasonably required by the AER to perform a function or duty,

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or exercise a power, conferred or imposed on the AER under –

- (i) this Act; or
 - (ii) the regulations; or
 - (iii) the National Energy Retail Law (Tasmania); or
 - (iv) an instrument made under the National Energy Retail Law (Tasmania).
- (3) Despite any other Act or law, the Regulator may authorise the AER to disclose information provided under subsection (2) even if the information was given to the Regulator in confidence.
- (4) Nothing done, or authorised to be done, by the Regulator in acting under subsection (2) or (3) –
- (a) constitutes a breach of, or default under, an Act or other law; or
 - (b) constitutes a breach of, or default under, a contract, agreement, understanding or undertaking; or
 - (c) constitutes a breach of a duty of confidence (whether arising by contract, in equity or custom) or in any other way; or
 - (d) constitutes a civil or criminal wrong; or

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- (e) terminates an agreement or obligation or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy; or
- (f) releases a surety or any other obligee wholly or in part from an obligation.

34. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Energy and Resources; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Infrastructure, Energy and Resources.