

TASMANIA

ELECTRICITY - NATIONAL SCHEME (TASMANIA) AMENDMENT BILL 2007

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**ELECTRICITY - NATIONAL SCHEME
(TASMANIA) AMENDMENT BILL 2007**

*(Brought in by the Minister for Energy, the Honourable David
Edward Llewellyn)*

A BILL FOR

**An Act to amend the *Electricity - National Scheme
(Tasmania) Act 1999* and the *Electricity Supply Industry Act
1995***

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 *Electricity -
National Scheme (Tasmania) Amendment Act
2007*.

2. Commencement

This Act commences on a day to be proclaimed.

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

**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 substituted

Section 9 of the Principal Act is repealed and the following Part is substituted:

**PART 3 – LAW APPLICABLE TO RELEVANT
DECLARED ELECTRICAL SERVICE PRICE
DETERMINATION**

9. Interpretation

- (1) In this Part, unless the contrary intention appears –

“Declared Electrical Service Price Determination” means the declared electrical service price determination, as amended from time to time, that takes effect on 1 January 2008 and is made by the Regulator under regulation 31 of the *Electricity Supply Industry (Price Control) Regulations 2003*

*No. 28 of 1999

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in respect of Distribution Services
and Retail Services which are
declared electrical services within
the meaning of those regulations;

“jurisdictional laws” means –

- (a) the *Electricity Supply Industry Act 1995*; and
- (b) the *Electricity Supply Industry (Price Control) Regulations 2003*; and
- (c) the Tasmanian Electricity Code issued under Division 9 of Part 3 of the *Electricity Supply Industry Act 1995*, as amended or substituted from time to time; and
- (d) the National Electricity (Tasmania) Law as in force on 1 November 2007; and
- (e) the National Electricity Rules as in force on 1 November 2007, other than clause 9.48.4(b) of those Rules;

“New National Electricity Rules”
means the National Electricity Rules as in force at any time –

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- (a) after the National Electricity (Economic Regulation of Distribution Services) Amendment Rules 2007 made under the National Electricity (Tasmania) Law take effect; or
- (b) if the Rules referred to in paragraph (a) are not made, after the taking effect of such other rules made under the National Electricity (Tasmania) Law as are determined by the Minister, by order, for the purposes of this definition;

“New National Electricity (Tasmania) Law” means the National Electricity (Tasmania) Law as in force at any time after the commencement of the *National Electricity (South Australia) (National Electricity Law – Miscellaneous Amendments) Amendment Act 2007* of South Australia;

“Regulator” means the person holding the office of the Regulator under section 5 of the *Electricity Supply Industry Act 1995*;

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“regulatory period” means the period commencing on 1 January 2008 and ending on 30 June 2012;

“relevant declared electrical service price determination” means that part of the Declared Electrical Service Price Determination relating to Distribution Services which are a declared electrical service, within the meaning of the *Electricity Supply Industry (Price Control) Regulations 2003*;

“transfer day” means the day on which the functions and powers of the Regulator in respect of the operation, administration and enforcement of the relevant declared electrical service price determination are conferred on the Australian Energy Regulator by section 16C of the *Electricity Supply Industry Act 1995* consequent on the making of an agreement under section 16A, and a notice under section 16B, of that Act.

- (2) An order made for the purposes of the definition of “New National Electricity Rules” in subsection (1) is a statutory rule for the purposes of the *Rules Publication Act 1953*.

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

10. Law applying to relevant declared electrical service price determination

- (1) Despite any other provision of this Act, any other Act or any other law, the jurisdictional laws apply to the operation, administration and enforcement of the relevant declared electrical service price determination during the regulatory period to the exclusion of anything to the contrary in the New National Electricity (Tasmania) Law and the New National Electricity Rules.
- (2) The Regulator is responsible for the operation, administration and enforcement of the relevant declared electrical service price determination until (but excluding) the transfer day.
- (3) For the purposes of section 16C of the *Electricity Supply Industry Act 1995*, the Australian Energy Regulator is taken to be performing or exercising on the transfer day the functions and powers conferred on it under that section in respect of the operation, administration and enforcement of the relevant declared electrical service price determination.
- (4) On and after the transfer day –
 - (a) any determinations, arrangements, guidelines or requirements made by the Regulator relating to the relevant

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declared electrical service price determination that were in existence immediately before the transfer day, are taken to have been made by the Australian Electricity Regulator during the regulatory period; and

- (b) a reference to the Regulator in the relevant declared electrical service price determination, or any other document referred to in paragraph (a), is taken to be or include a reference to the Australian Energy Regulator.
- (5) Nothing in this section affects the making, under the New National Electricity (Tasmania) Law and the New National Electricity Rules, of a distribution determination that will take effect after the regulatory period.

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Part 3 – Electricity Supply Industry Act 1995 Amended

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

5. Principal Act

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

6. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “AER”:

“Australian Energy Market Agreement” means the Australian Energy Market Agreement made between the Commonwealth, State and Territory Governments on 30 June 2004 and all amendments to that Agreement;

- (b) by omitting the definition of “National Electricity Rules” and substituting the following definition:

“National Electricity Rules” has the same meaning as in the National Electricity Law;

*No. 58 of 1995

7. Section 16C amended (Conferral of transmission pricing functions and powers)

Section 16C of the Principal Act is amended by omitting subsection (5) and substituting the following subsections:

- (5) Despite section 16, any other provision of this Act, any other Act and any other law, the Regulator is authorised, on his, her or its own initiative or at the request of the AER –
 - (a) to provide the AER with such 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 performing and exercising the functions and powers conferred on it by this section; and
 - (b) to provide the AER with such other assistance as is reasonably required by the AER for the purposes of performing and exercising those functions and powers.
- (5A) Despite section 16, any other provision of this Act, any other Act and any other law, the Regulator may authorise the AER to disclose information provided under subsection (5) even if the

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information was given to the Regulator in confidence.

(5B) Nothing done, or authorised to be done, by the Regulator when acting under subsection (5) or (5A) –

- (a) constitutes a breach of, or default under, this Act, another Act or another 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 by custom) or in any other way; or
- (d) constitutes a civil or criminal wrong; or
- (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 person wholly or in part from an obligation.

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8. Section 49B amended (Review, amendment and replacement of Code)

Section 49B(4) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d) “Rules.” and substituting “Rules;”;
- (b) by inserting the following paragraphs after paragraph (d):
 - (e) making provision in respect of any arrangements, guidelines or requirements necessary in relation to distribution services, performance standards and distribution performance targets, including but not limited to payments to customers, that are connected with the provision of guaranteed service levels;
 - (f) giving effect to the implementation of national energy market reforms in accordance with the Australian Energy Market Agreement.