

Legislation Fact Sheet

National Energy Retail Law (Tasmania) (Consequential Amendments) Bill 2012

- *The National Energy Retail Law (Tasmania) (Consequential Amendments) Bill 2012* amends the *Electricity – National Scheme (Tasmania) Act 1999*, the *Electricity Supply Industry Act 1995* and the *Energy Ombudsman Act 1998* consequent on the enactment of the *National Energy Retail Law (Tasmania) Bill 2012*.
- The National Energy Retail Law (Tasmania) Bill applies the National Energy Retail Law (NERL) as law of Tasmania. The Bill also applies the National Energy Retail Rules that are made under the NERL and any regulations in force under the NERL as law of Tasmania, subject to certain modifications prescribed in regulations under that Bill.
- The NERL provides a national regime for the regulation of the distribution and retailing of energy, except for matters relating to pricing. The Australian Energy Regulator (AER) is the regulator under NERL and will be responsible for issuing retailer authorisations to retailers selling, or intending to sell, electricity to customers in Tasmania.
- As a result of the adoption of the NERL in Tasmania, a number of consequential amendments are required to ensure that Tasmania's electricity legislation is consistent with the new national framework and to ensure that the current market arrangements in Tasmania are maintained.
- Under the NERL there are retailer authorisations, but not the licensing of retailers, which is how the current Tasmanian regulatory framework operates. Changes to the Electricity Supply Industry Act are required to ensure alignment with the NERL in this regard. Consequential amendments are also required in relation to Tasmania's retail contestability arrangements, and price regulation for small customers, thereby maintaining existing policy settings.
- While the NERL applies to both gas and electricity, the National Energy Retail Law (Tasmania) Bill does not apply the NERL to the provision of natural gas in Tasmania.
- The most significant change is the transfer of the non-economic regulatory functions of the Tasmanian Economic Regulator to the AER. This includes the regulation of the contractual relationships between electricity distributors and retailers, and between retailers and customers, and customer protection measures. The AER will also be responsible for administering the retailer of last resort scheme. Electricity price regulation for small customers remains a jurisdictional responsibility and will continue to be regulated by the Tasmanian Economic Regulator.
- Currently the exclusivity for Aurora Energy as the only retailer authorised to sell electricity to non-contestable customers on mainland Tasmania is also established through licence conditions. As licensing functions are being

transferred to the AER, it is necessary to include provisions in the Electricity Supply Industry Act to provide that only Aurora Energy may sell electricity to non-contestable customers on mainland Tasmania, consistent with the existing structure of the Tasmanian market.

- The current Tasmanian contestability thresholds are not changing. Non-contestable customers are all residential customers and business customers whose consumption of electricity is below 50 megawatt hours per annum.
- In addition, the classification of contestable customers currently known as standing offer contestable customers that consume between 50 and 150 megawatt hours of electricity per annum is being maintained and will be referred to as small contestable customers. Under the NERL, these customers will continue to have access to Aurora Energy's regulated tariff, as well as benefiting from all of the NERL small customer protection measures, meaning that they will have access to the full range of customer protection measures in the NERL.
- The Bill inserts a new Division 4 in Part 3 of the Electricity Supply Industry Act to maintain some existing regulatory arrangements in the electricity supply industry that would otherwise cease under the legislative package that applies the NERL in Tasmania. This includes prescribing Aurora Energy, in its capacity as a retailer, to be the only retailer authorised to sell electricity to non-contestable customers on mainland Tasmania.
- This Division also maintains the existing tariff approval processes under which the Tasmanian Economic Regulator is required to approve Aurora Energy's prices and charges.
- The Bill inserts a new provision that provides that only Aurora Energy, in its capacity as a retailer of electricity, may sell unmetered electricity. Unmetered electricity is predominately supplied for street lighting.
- The Australian Energy Market Operator has a market settlement process for determining unmetered loads, with prices regulated by the Australian Energy Regulator. The metrology and other processes to support contestability in unmetered electricity supply are yet to be established in Tasmania. If they are put in place, this exclusivity provision may not be required. The Bill therefore provides that regulations prescribe the period in which only Aurora Energy can sell unmetered electricity, and the class of persons to whom this exclusivity may apply.
- The Bill repeals the retailer of last resort scheme provisions in the Electricity Supply Industry Act as a retailer of last resort scheme, to be administered by the Australian Energy Regulator, is provided for under the NERL.
- Provisions have also been included in the Bill to allow the Tasmanian Economic Regulator to recover its reasonable costs associated with administering the tariff approval process from Aurora Energy. Previously, the Tasmanian Economic Regulator recovered such costs through licence fees. The Regulator is also permitted to recover the reasonable costs associated with performing its functions under the Act in respect of the regulation of non-contestable customers.

- The new Division 4 also maintains the prohibition that prevents Hydro Tasmania, or any of its subsidiaries, or related bodies corporate, from selling, or offering to sell, electricity to a customer on mainland Tasmania.
- In addition, the Bill amends the Electricity Supply Industry Act to require the Tasmanian Economic Regulator to issue a licence to Hydro Tasmania for the generation, distribution and retailing of electricity in the Bass Strait Islands. These provisions are required to be explicitly drafted as the retailing provisions of the Act are being repealed and because the NERL does not apply to the Bass Strait Islands as the Islands are not connected to the National Electricity System.
- The Bill also prescribes the tariff approval process in respect of the prices, charges and conditions that will apply to customers in the Bass Strait Islands, as well as requiring Hydro Tasmania to perform system controller functions in order to ensure a reliable supply of electricity to customers in the Bass Strait Islands.
- The provisions regulating the supply and sale of electricity to customers in the Bass Strait Islands do not reflect any change in the existing arrangements governing the regulation of electricity in the Islands.
- The Bill also makes a number of consequential amendments to definitions used in the Electricity Supply Industry Act and repeals definitions and provisions that will be redundant following the application of the NERL in Tasmania.
- This Bill inserts a new Part 4 in the Electricity–National Scheme (Tasmania) Act to ensure that any decisions or instruments made by the Australian Energy Regulator under the National Electricity Law that relate to the NERL are taken to be valid as they apply to the NERL in Tasmania.
- The Bill also amends the Energy Ombudsman Act so that that Act will apply to customers of authorised retailers as well as persons who are supplied electricity from someone other than an authorised retailer, for example the owner of a caravan park or shopping centre, defined as an exempt seller. The amendments to the Energy Ombudsman Act will enable persons to make a complaint to the Ombudsman if the person has a grievance concerning the sale or supply of electricity from an authorised retailer or other exempt seller.