

TASMANIA

ECONOMIC REGULATOR AMENDMENT BILL 2015

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ECONOMIC REGULATOR AMENDMENT BILL 2015

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.

SHANE DONNELLY, *Clerk of the House*
21 April 2015

*(Brought in by the Treasurer, the Honourable Peter Carl
Gutwein)*

A BILL FOR

An Act to amend the *Economic Regulator Act 2009*, the *Electricity Supply Industry Act 1995*, the *Energy Ombudsman Act 1998*, the *Gas Act 2000*, the *Gas Pipelines Act 2000*, the *Metro Tasmania Act 1997*, the *Urban Drainage Act 2013* and the *Water and Sewerage Industry Act 2008*, and related subordinate legislation

Be it enacted by Her 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 *Economic Regulator Amendment Act 2015*.

2. Commencement

This Act commences on 1 July 2015.

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Part 2 – Economic Regulator Act 2009 Amended

**PART 2 – ECONOMIC REGULATOR ACT 2009
AMENDED**

3. Principal Act

In this Part, the *Economic Regulator Act 2009**
is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as
follows:

- (a) by inserting the following definition
before the definition of *Agency*:

Acting Regulator means a person
appointed under section 16 to act
as the Regulator;

- (b) by inserting the following definition after
the definition of *ancillary service*:

Assistant Regulator mean a person
appointed under section 16A as
Assistant Regulator;

- (c) by omitting the definition of *Regulator*
and substituting the following definition:

Regulator means the Tasmanian
Economic Regulator appointed
under section 9;

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5. Section 6 amended (Declaration of monopoly service)

Section 6(3) of the Principal Act is amended by omitting “its” and substituting “his or her”.

6. Section 9 amended (Tasmanian Economic Regulator)

Section 9 of the Principal Act is amended as follows:

(a) by omitting subsections (1) and (2) and substituting the following subsections:

(1) The Minister is to appoint a person to be the Tasmanian Economic Regulator.

(2) The Regulator –

(a) is a corporation sole; and

(b) has a seal; and

(c) may sue and be sued in his or her corporate name.

(b) by inserting the following subsections after subsection (4):

(5) All courts and persons acting judicially are to take judicial notice of –

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- (a) the official signature of a person who is or has been the Regulator; and
 - (b) the fact that the person holds or has held the office of Regulator.
- (6) Division 2 of this Part has effect in relation to the Regulator.
- (7) Before performing any function or exercising any power under this Act, or any other Act, the Regulator is to have regard to the costs and benefits of the Regulator's actions.
- (8) Despite subsection (7), the Regulator –
 - (a) may perform any function or exercise any power under this Act, or any other Act, regardless of the costs or benefits of the action; and
 - (b) is not required to give, to any person, reasons for so performing the function or exercising the power.

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7. Section 11 amended (Powers of Regulator generally)

Section 11 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d) “its” and substituting “his or her”;
- (b) by omitting from paragraph (e) “it” and substituting “he or she”;
- (c) by omitting from paragraph (f) “its” and substituting “his or her”.

8. Section 12 amended (Power to publish guidelines)

Section 12 of the Principal Act is amended by omitting “its” and substituting “his or her”.

9. Section 13 amended (Delegation)

Section 13 of the Principal Act is amended as follows:

- (a) by omitting “a member of the Regulator or”;
- (b) by omitting “its” first occurring and substituting “his or her”;
- (c) by omitting from paragraph (b) “its” and substituting “the”;
- (d) by omitting from paragraph (c) “its” and substituting “the”.

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Part 2 – Economic Regulator Act 2009 Amended

10. Part 2, Division 2 substituted

Division 2 of Part 2 of the Principal Act is repealed and the following Division is substituted:

Division 2 – Appointment of Regulator &c.

15. Terms of office of Regulator

- (1) The Regulator may be appointed for a term of not more than 5 years as specified in his or her instrument of appointment and may be reappointed.
- (2) For the purposes of this Part, the Regulator is absent from the office of Regulator if he or she –
 - (a) is absent from duty; or
 - (b) has vacated, within the meaning of section 16D, the office of Regulator; or
 - (c) has a direct or indirect interest (pecuniary or otherwise) in a matter being or about to be considered by the Regulator; or
 - (d) is otherwise unable to perform the functions of the office of Regulator.

16. Acting Regulator

- (1) The Minister may appoint a person as Acting Regulator to act as the Regulator during any particular, or every, period during which the Regulator is absent.
- (2) The appointment of an Acting Regulator is subject to, and has effect in accordance with, the terms and conditions (including remuneration and allowances) specified in the instrument of appointment.
- (3) If a vacancy, within the meaning of section 16D, occurs in the office of Regulator while a person appointed under this section is acting as the Regulator, that person may continue to so act until a person is appointed as Regulator under section 9.
- (4) While a person is acting as the Regulator in accordance with this section, he or she is taken to be the Regulator.

16A. Assistant Regulator

- (1) The Minister may appoint a person to the office of Assistant Regulator to perform a specific function of the Regulator as specified in the instrument of appointment.
- (2) The appointment of a person under subsection (1) –

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- (a) is for the period required to complete the function specified in the instrument of appointment; and
 - (b) is subject to, and has effect in accordance with, the terms and conditions (including remuneration and allowances) specified in the instrument of appointment.
- (3) While a person is acting as an Assistant Regulator in accordance with this section, that person –
 - (a) is, subject to paragraph (b), taken to be the Regulator in respect of the specific function the person has been appointed to perform; and
 - (b) may only make a determination or decision as the Regulator if that determination or decision has been agreed to by the Regulator or Acting Regulator.
- (4) Nothing in this section prevents the Regulator, or Acting Regulator, from performing a function that an Assistant Regulator has been appointed to perform.

16B. Qualifications for appointment

- (1) In appointing a person to be the Regulator, the Acting Regulator or an Assistant Regulator, the Minister is to be satisfied that the person has knowledge of, or experience in –
 - (a) industry, commerce, economics, law or public administration; or
 - (b) the regulation of utilities or the provision of services by a monopoly provider or other utility.
- (2) The *State Service Act 2000* does not apply in relation to the Regulator, the Acting Regulator or an Assistant Regulator in his or her capacity as such.
- (3) A person may hold, but is not required to hold, the office of Regulator, Acting Regulator or Assistant Regulator in conjunction with State Service employment.

16C. Remuneration and conditions of appointment

- (1) A person appointed as the Regulator, the Acting Regulator or an Assistant Regulator is entitled to be paid such remuneration and allowances as the Minister determines.

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- (2) A person appointed as the Regulator, the Acting Regulator or an Assistant Regulator who is also a State Service employee or State Service officer is not entitled to remuneration or allowances under this section except with the approval of the Minister administering the *State Service Act 2000*.
- (3) A person appointed as the Regulator, the Acting Regulator or an Assistant Regulator holds office on such conditions in relation to matters not provided for by this Act as are specified in the person's instrument of appointment.

16D. Vacation of office

- (1) The Regulator, the Acting Regulator or an Assistant Regulator is taken to have vacated his or her office if he or she –
 - (a) dies; or
 - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors, or makes an assignment of his or her remuneration or estate for their benefit; or
 - (c) resigns his or her office by writing under his or her hand addressed to the Minister and the

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Minister accepts the resignation;
or

(d) is removed from office by the
Minister under subsection (2).

(2) The Minister may remove a person from
the office of Regulator, Acting Regulator
or Assistant Regulator if the Minister is
satisfied that the person –

(a) is absent from that office –

(i) otherwise than in
accordance with the
person's instrument of
appointment to that
office; or

(ii) without the permission of
the Minister; or

(b) is convicted, in Tasmania or
elsewhere, of a crime or an
offence punishable by
imprisonment for a term of 12
months or longer; or

(c) is convicted of an offence under
this Act; or

(d) is unable to adequately perform
the duties of office.

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16E. Disclosure of interest

- (1) If a person appointed to the office of Regulator, Acting Regulator or Assistant Regulator has a direct or indirect interest (pecuniary or otherwise) in a matter that is about to be considered by the person in his or her capacity as Regulator, Acting Regulator or Assistant Regulator, the person must disclose the nature of the interest to the Minister as soon as practicable after the relevant facts come to the person's knowledge.

Penalty: Fine not exceeding 50 penalty units.

- (2) Unless the Minister otherwise determines, a person who has made a disclosure under subsection (1) in relation to a matter must not –
- (a) be present during any consideration of, or the making of a decision in relation to, the matter under this Act or during any other proceeding in relation to the matter under this Act; or
 - (b) take part in any consideration of, or the making of a decision in relation to, the matter.
- (3) Subsection (1) does not apply in respect of an interest that consists only of the receipt of a service that –

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- (a) is also available to members of the public; and
- (b) is made available on the same terms as apply to members of the public.

16F. Validation of proceedings, &c.

- (1) No act or proceeding of the Regulator, the Acting Regulator or an Assistant Regulator or any person acting under the direction of the Regulator is invalidated or prejudiced by reason only of the fact that, at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the office of Regulator.
- (2) All acts and proceedings of the Regulator, the Acting Regulator or an Assistant Regulator or of a person acting under a direction of the Regulator are, despite the subsequent discovery of a defect in the appointment of the Regulator, the Acting Regulator or the Assistant Regulator, as valid as if the Regulator, the Acting Regulator or the Assistant Regulator had been duly appointed and was qualified to act as, or was capable of being, the Regulator, the Acting Regulator or an Assistant Regulator.

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16G. Presumptions

In any proceedings by or against the Regulator, unless evidence is given to the contrary, proof is not required of the appointment of the Regulator, the Acting Regulator or an Assistant Regulator.

11. Section 17 amended (Staff of Regulator)

Section 17 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “its” and substituting “his or her”;
- (b) by omitting from subsection (2) “its” and substituting “his or her”.

12. Section 18 amended (Assistance and facilities)

Section 18 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “it” twice occurring and substituting “the Regulator”;
- (b) by omitting from subsection (1) “its” and substituting “his or her”;
- (c) by omitting from subsection (2) “it” twice occurring and substituting “the Regulator”;

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- (d) by omitting from subsection (2) “its” and substituting “his or her”.

13. Section 19 amended (Funds)

Section 19 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “it” and substituting “the Regulator”;
- (b) by omitting from subsection (1)(a) “its” twice occurring and substituting “his or her”;
- (c) by omitting from subsection (1)(c) “it” and substituting “the Regulator”;
- (d) by omitting from subsection (3)(a) “its” twice occurring and substituting “his or her”;
- (e) by omitting paragraph (b) from subsection (3) and substituting the following paragraph:
 - (b) in the payment of the remuneration and allowances of the Regulator, the Acting Regulator or an Assistant Regulator; and

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14. Section 20 amended (Costs of monopoly provider investigations)

Section 20(6) of the Principal Act is amended by omitting “it” and substituting “the Regulator”.

15. Section 21 amended (Financial statements)

Section 21 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b)(i) “its” and substituting “his or her”;
- (b) by omitting from subsection (2) “its” and substituting “his or her”.

16. Section 24 amended (Requirement to conduct monopoly provider investigation)

Section 24(1) of the Principal Act is amended by omitting “its” from paragraph (a) of the definition of *initial requirement day* and substituting “his or her”.

17. Section 25 amended (Terms of reference)

Section 25(c) of the Principal Act is amended by omitting “its” and substituting “his or her”.

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18. Section 26 amended (Notice of monopoly provider investigation)

Section 26(1)(b) of the Principal Act is amended by omitting “Tasmania” and substituting “Tasmania, or in such other manner,”.

19. Section 27 amended (Conduct of monopoly provider investigations)

Section 27 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “it” and substituting “the Regulator”;
- (b) by omitting from subsection (2) “its” and substituting “his or her”;
- (c) by omitting from subsection (3) “itself” and substituting “himself or herself”;
- (d) by omitting from subsection (3) “it” and substituting “the Regulator”.

20. Section 30 amended (Use of documents or other information)

Section 30 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “it” and substituting “the Regulator”;
- (b) by omitting from subsection (4) “it” and substituting “the Regulator”.

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21. Section 32 amended (Limitations on monopoly provider investigation and reporting)

Section 32(2) of the Principal Act is amended as follows:

- (a) by omitting “the Regulator, a member of the Regulator” and substituting “the Regulator, the Acting Regulator, an Assistant Regulator”;
- (b) by omitting “its,”;
- (c) by omitting “the Regulator” third occurring and substituting “the Regulator, the Acting Regulator or an Assistant Regulator”;
- (d) by omitting “its” second occurring and substituting “his or her”.

22. Section 33 amended (Offences)

Section 33(1)(c) of the Principal Act is amended as follows:

- (a) by omitting “Regulator, a member of the Regulator” and substituting “the Regulator, the Acting Regulator, an Assistant Regulator”;
- (b) by omitting “its,”.

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23. Section 34 amended (Draft report)

Section 34 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(a)(i) “it” and substituting “the Regulator”;
- (b) by omitting from subsection (2)(a)(ii) “its” and substituting “his or her”;
- (c) by omitting subsection (3).

24. Section 35 amended (Final report)

Section 35(3) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “force; and” and substituting “force.”;
- (b) by omitting paragraph (c).

25. Section 37 amended (Action by monopoly provider following pricing policy order)

Section 37 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3)(a) “it” and substituting “the Regulator”;
- (b) by omitting from subsection (3)(b) “it” and substituting “the Regulator”;
- (c) by omitting from subsection (4) “its” first occurring and substituting “his or her”;

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- (d) by omitting from subsection (4) “it” and substituting “the Regulator”.

26. Section 39 amended (Direction to conduct prescribed body inquiry)

Section 39(3)(a) of the Principal Act is amended by omitting “its” and substituting “his or her”.

27. Section 40 amended (Conduct of prescribed body inquiry)

Section 40 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “it” and substituting “the Regulator”;
- (b) by omitting from subsection (1) “its” and substituting “his or her”;
- (c) by omitting from subsection (2)(a) “itself” and substituting “himself or herself”;
- (d) by omitting from subsection (2)(a) “it” and substituting “the Regulator”;
- (e) by omitting from subsection (2)(b) “it” and substituting “the Regulator”.

28. Section 41 amended (Use of documents or other information)

Section 41(1) of the Principal Act is amended by omitting “it” and substituting “the Regulator”.

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29. Section 42 amended (Report on prescribed body inquiry)

Section 42(a) of the Principal Act is amended by omitting “its” and substituting “his or her”.

30. Section 43 amended (Offences)

Section 43(b) of the Principal Act is amended by omitting “its,”.

31. Section 44 amended (Direction to conduct taxi fare methodology inquiry)

Section 44(2)(a) of the Principal Act is amended by omitting “its” and substituting “his or her”.

32. Section 45 amended (Conduct of taxi fare methodology inquiry)

Section 45 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “it” and substituting “the Regulator”;
- (b) by omitting from subsection (2)(a) “itself” and substituting “himself or herself”;
- (c) by omitting from subsection (2)(a) “it” and substituting “the Regulator”;
- (d) by omitting from subsection (2)(b) “it” and substituting “the Regulator”.

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33. Section 46 amended (Offences)

Section 46(b) of the Principal Act is amended by omitting “its,”.

34. Section 47 amended (Report on taxi fare methodology inquiry)

Section 47(a) of the Principal Act is amended by omitting “its” and substituting “his or her”.

35. Section 54 amended (Conduct of complaint investigation)

Section 54 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “it” and substituting “the Regulator”;
- (b) by omitting from subsection (2)(a) “itself” and substituting “himself or herself”;
- (c) by omitting from subsection (2)(a) “it” and substituting “the Regulator”;
- (d) by omitting from subsection (2)(b) “it” and substituting “the Regulator”.

36. Section 56 amended (Use of documents or other information)

Section 56 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (2) “it” and substituting “the Regulator”;
- (b) by omitting from subsection (4) “it” and substituting “the Regulator”.

37. Section 59 repealed

Section 59 of the Principal Act is repealed.

38. Section 60 amended (Action by prescribed body on determination)

Section 60 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “and, if the prescribed body intends to take an action, the period in which that action is intended to be taken” after “that report”;
- (b) by omitting subsection (2) and substituting the following subsection:
 - (2) At any time after the end of the period referred to in subsection (1), the Regulator may require the prescribed body, within the period specified in the requirement, to provide the Regulator with information in respect of –
 - (a) any action the prescribed body has taken or is still to take as a result of

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receiving the complaint investigation report under section 57(2); or

- (b) any recommendation, in the report, of a kind referred to in section 57(2)(a) or (b) in respect of which the prescribed body is not intending to take action.

39. Section 60A inserted

After section 60 of the Principal Act, the following section is inserted in Part 6:

60A. Minister may make direction

- (1) Within 45 days after receiving a written notice from a prescribed body under section 60(1), the Regulator is to provide to the Minister, and the Portfolio Minister, a report on –
 - (a) the action the prescribed body has taken, or intends to take, as specified in the written notice; and
 - (b) any recommendations in the report on a complaint investigation under section 57(2) (the *investigation report*), that is the basis for the written notice, in respect of which the prescribed

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body has not taken action and does not intend to take action.

- (2) After receiving a report under subsection (1), the Minister, with the agreement of the Portfolio Minister, may –
- (a) make such directions to the prescribed body that the Minister considers necessary to ensure the prescribed body implements the recommendations of a kind referred to in section 57(2)(a) or (b) specified in the investigation report; or
 - (b) refuse to make a direction under paragraph (a) in respect of the prescribed body; or
 - (c) request further information from the Regulator and then make a direction under paragraph (a) or refuse to make a direction under paragraph (b).
- (3) The Regulator may, at any time and whether or not the Minister has made a request under subsection (2)(c), provide the Minister with further information in respect of a prescribed body or investigation report.
- (4) A direction under subsection (2)(a) –

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- (a) may be made at any time after the Minister receives a report under subsection (1); and
 - (b) is to be in writing to the prescribed body; and
 - (c) is to specify the action that the prescribed body is to take; and
 - (d) may specify the period in which the action is to be taken by the prescribed body.
- (5) A person to whom a direction under subsection (2)(a) applies must comply with that direction.

Penalty: Fine not exceeding 100 penalty units.
- (6) If the Minister makes a direction under subsection (2)(a), the Minister is to –
 - (a) provide a copy of the direction to the Regulator; and
 - (b) notify the complainant that a direction has been made.
- (7) If the Minister refuses to make a direction under subsection (2)(b), the Minister is to notify the Regulator, and complainant, in writing of that refusal.

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Part 2 – Economic Regulator Act 2009 Amended

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40. Section 62 amended (Offences)

Section 62(1)(c) of the Principal Act is amended by omitting “its,”.

41. Section 68A inserted

After section 68 of the Principal Act, the following section is inserted in Part 7:

68A. Further savings and transitionals

(1) In this section –

commencement day means the day on which the *Economic Regulator Amendment Act 2015* commences;

former Regulator means the Regulator established under section 9 as in force immediately before the commencement day;

sole Regulator means the Regulator appointed under section 9 as in force on, and after, the commencement day.

(2) On the commencement day –

(a) the appointment of each member of the former Regulator is revoked; and

(b) a member of the former Regulator is only entitled to

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receive any benefits in respect of the revocation as may be specified in his or her instrument of appointment as such a member.

- (3) On and after the commencement day, a reference to a member of the Regulator by title, other than in this section, is taken to be a reference to the sole Regulator, as required.
- (4) Any legal or other proceedings that, before the commencement day, might have been continued or instituted by or against the former Regulator, or a member of the former Regulator in his or her capacity as member, may, on and after that day, be continued or instituted by or against the sole Regulator.
- (5) In this, or any other, Act, any action or decision of the former Regulator before the commencement day that was done or made in its capacity as the former Regulator is taken on and after that day to be an action or decision of the sole Regulator.

42. Section 68 amended (Savings and transitional provisions)

Section 68 of the Principal Act is amended by omitting subsection (3).

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43. Schedule 1 amended (Certain monopoly providers)

Schedule 1 to the Principal Act is amended by omitting item 1.

44. Schedules 2, 3 and 4 repealed

Schedules 2, 3 and 4 to the Principal Act are repealed.

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Part 3 – Electricity Supply Industry (Pricing and Related Matters)
Regulations 2013 Amended

**PART 3 – ELECTRICITY SUPPLY INDUSTRY
(PRICING AND RELATED MATTERS)
REGULATIONS 2013 AMENDED**

45. Principal Regulations

In this Part, the *Electricity Supply Industry (Pricing and Related Matters) Regulations 2013** are referred to as the Principal Regulations.

46. Regulation 10 amended (Notice of investigation to be given)

Regulation 10 of the Principal Regulations is amended as follows:

- (a) by omitting from subregulation (1)(c) “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”;
- (b) by omitting from subregulation (6)(a) “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”.

*S.R. 2013, No. 26

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Part 3 – Electricity Supply Industry (Pricing and Related Matters)
Regulations 2013 Amended

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47. Regulation 14 amended (Notice to be given of making of price-regulated retail service price determination)

Regulation 14(1)(b) of the Principal Regulations is amended by omitting “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”.

48. Regulation 18 amended (Process for amendment or revocation)

Regulation 18(3)(b) of the Principal Regulations is amended by omitting “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”.

49. Regulation 22 amended (Notice of investigation to be given)

Regulation 22 of the Principal Regulations is amended as follows:

- (a) by omitting from subregulation (1)(d) “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”;
- (b) by omitting from subregulation (6)(a) “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”.

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Part 3 – Electricity Supply Industry (Pricing and Related Matters)
Regulations 2013 Amended

50. Regulation 27 amended (Notice of investigation to be given)

Regulation 27 of the Principal Regulations is amended as follows:

- (a) by omitting from subregulation (1)(e) “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”;
- (b) by omitting from subregulation (6)(a) “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”.

51. Regulation 31 amended (Notice to be given of intention to make declaration of declared electrical services)

Regulation 31(b) of the Principal Regulations is amended by omitting “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”.

52. Regulation 35 amended (Regulator to consider, before expiry of existing determination, whether to revoke declaration)

Regulation 35(3)(b) of the Principal Regulations is amended by omitting “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”.

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Regulations 2013 Amended

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53. Regulation 37 amended (Notice of investigation to be given)

Regulation 37 of the Principal Regulations is amended as follows:

- (a) by omitting from subregulation (1)(c) “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”;
- (b) by omitting from subregulation (6)(a) “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”.

54. Regulation 42 amended (Notice to be given of making of declared electrical service price determination)

Regulation 42(1)(b) of the Principal Regulations is amended by omitting “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”.

55. Regulation 46 amended (Process for making of amendment or revocation)

Regulation 46(3)(b) of the Principal Regulations is amended by omitting “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”.

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Regulations 2013 Amended

56. Regulation 47C amended (Notice of investigation to be given)

Regulation 47C of the Principal Regulations is amended as follows:

- (a) by omitting from subregulation (1)(b) “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”;
- (b) by omitting from subregulation (6)(a) “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”.

57. Regulation 47F amended (Notice of making of feed-in tariff rate determination)

Regulation 47F(1)(b) of the Principal Regulations is amended by omitting “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”.

58. Regulation 47J amended (Process for amendment or revocation)

Regulation 47J(3)(b) of the Principal Regulations is amended by omitting “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”.

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Part 3 – Electricity Supply Industry (Pricing and Related Matters)
Regulations 2013 Amended

s. 59

59. Regulation 54 amended (Final report)

Regulation 54(1)(d) of the Principal Regulations is amended by omitting “the daily newspapers that” and substituting “such daily newspapers, or in such other manner, as”.

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Part 4 – Electricity Supply Industry Act 1995 Amended

**PART 4 – ELECTRICITY SUPPLY INDUSTRY ACT
1995 AMENDED**

60. Principal Act

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

61. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by inserting after the definition of *electricity supply industry* the following definition:

energy Minister means the Minister assigned the administration of Division 1 of Part 3;

62. Section 6 amended (Regulator’s functions and powers)

Section 6 of the Principal Act is amended as follows:

- (a) by omitting from subsection (4) “its” and substituting “his or her”;
- (b) by omitting from subsection (5) “its” and substituting “his or her”.

*No. 58 of 1995

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Part 4 – Electricity Supply Industry Act 1995 Amended

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63. Section 7 inserted

After section 6 of the Principal Act, the following section is inserted in Division 1:

7. Enforcement of Act by Regulator

- (1) If the Regulator is satisfied that an electricity entity has contravened this Act or the conditions of the licence held by the electricity entity, the Regulator may impose on the electricity entity a monetary penalty not exceeding –
 - (a) 5 000 penalty units for the first day on which the contravention occurs; and
 - (b) a further fine not exceeding 200 penalty units for each subsequent day on which the contravention continues.
- (2) If there is more than one electricity entity that may be taken to have contravened this Act in respect of a single event, the Regulator may take any action under this section in respect of one or more such electricity entities as the Regulator thinks fit.
- (3) A decision of the Regulator under this section may be subject to administrative review under Part 9.

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Part 4 – Electricity Supply Industry Act 1995 Amended

64. Sections 10A, 10B and 10C inserted

After section 10 of the Principal Act, the following sections are inserted in Division 1:

10A. State of the industry report

- (1) The Regulator may prepare a report on the state of the electricity supply industry (the *state of the industry report*).
- (2) The Regulator is to prepare a state of the industry report –
 - (a) on the Regulator’s own initiative; or
 - (b) if directed to do so by the energy Minister and the Minister assigned the administration of the *Economic Regulator Act 2009*.
- (3) A direction under subsection (2)(b) to prepare a state of the industry report may include the terms of reference for that state of the industry report.
- (4) The Regulator is to cause a copy of the state of the industry report to be –
 - (a) laid before each House of Parliament within 7 sitting-days after preparing it; and
 - (b) made available to members of the public in such a manner as the Regulator considers appropriate.

10B. Network reliability report

- (1) At least once in every 3-year period, the Regulator is to conduct a review into the reliability of network services.
- (2) After conducting a review under subsection (1), the Regulator is to prepare a report on the findings of the review (the *network reliability report*).
- (3) The Regulator is to conduct a review under subsection (1) –
 - (a) on the Regulator’s own initiative; or
 - (b) if directed to do so by the energy Minister and the Minister assigned the administration of the *Economic Regulator Act 2009*.
- (4) A direction under subsection (3)(b) to conduct a review under subsection (1) may include terms of reference for the network reliability report that is to be prepared in respect of the review.
- (5) The Regulator is to cause a copy of the network reliability report to be –
 - (a) laid before each House of Parliament within 7 sitting-days after preparing it; and

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Part 4 – Electricity Supply Industry Act 1995 Amended

- (b) made available to members of the public in such a manner as the Regulator considers appropriate.

10C. Price comparison report

- (1) In this section –

pricing Minister means the Minister assigned the administration of Division 4 of Part 3.

- (2) The Regulator –

- (a) may prepare a report into the comparison of electricity prices available to small customers across Australian jurisdictions (the *price comparison report*); and

- (b) is to prepare a report into the comparison between the prices of a prepayment meter system and all other relevant retail electricity prices for small customers in Tasmania (the *prepayment price comparison report*).

- (3) The Regulator is to prepare a price comparison report –

- (a) on the Regulator's own initiative; or
- (b) if directed to do so by the pricing Minister and the Minister

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assigned the administration of the
Economic Regulator Act 2009.

- (4) A direction under subsection (3)(b) to prepare a price comparison report may include the terms of reference for that report.
- (5) The Regulator is to prepare a prepayment price comparison report annually.
- (6) The Regulator is to cause a copy of each report prepared under subsection (2) to be –
 - (a) laid before each House of Parliament within 7 sitting-days after preparing it; and
 - (b) made available to members of the public in such a manner as the Regulator considers appropriate.

65. Section 12 amended (Advisory committees)

Section 12 of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:

- (2) The members of an advisory committee established under this section by the Minister are appointed and hold office on such terms and conditions as the Minister determines.
- (3) The members of an advisory committee established under this section by the

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Part 4 – Electricity Supply Industry Act 1995 Amended

Regulator are appointed and hold office on such terms and conditions as the Regulator determines.

66. Section 43A amended (Regulator may charge for certain expenses)

Section 43A(1)(a)(iii) of the Principal Act is amended by omitting “its” and substituting “his or her”.

67. Section 99 amended (Powers of Regulator or workplace health and safety Secretary on review)

Section 99(2) of the Principal Act is amended by omitting “its,”.

68. Section 116A amended (Regulator or workplace health and safety Secretary may take court action on behalf of customer)

Section 116A of the Principal Act is amended by omitting “its”.

**PART 5 – ENERGY OMBUDSMAN ACT 1998
AMENDED**

69. Principal Act

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

70. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by omitting “established” from the definition of *Regulator* and substituting “appointed”.

71. Section 39B amended (Review of apportionment in budget)

Section 39B(7)(b) of the Principal Act is amended as follows:

- (a) by omitting “himself, herself or itself” and substituting “himself or herself”;
- (b) by omitting “he, she or it” and substituting “he or she”.

*No. 20 of 1998

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Part 6 – Gas Act 2000 Amended

PART 6 – GAS ACT 2000 AMENDED

72. Principal Act

In this Part, the *Gas Act 2000** is referred to as the Principal Act.

73. Section 8 amended (Functions of Regulator)

Section 8(2A) of the Principal Act is amended by omitting “its” and substituting “his or her”.

74. Sections 8A and 8B inserted

After section 8 of the Principal Act, the following sections are inserted in Division 1:

8A. State of the industry report

(1) In this section –

energy Minister means the Minister assigned the administration of Division 1 of Part 3.

(2) The Regulator may prepare a report on the state of the gas supply industry (the *state of the industry report*).

(3) The Regulator is to prepare a state of the industry report –

(a) on the Regulator’s own initiative;
or

*No. 92 of 2000

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Part 6 – Gas Act 2000 Amended

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- (b) if directed to do so by the energy Minister and the Minister assigned the administration of the *Economic Regulator Act 2009*.
- (4) A direction under subsection (3)(b) to prepare a state of the industry report may include the terms of reference for that state of the industry report.
- (5) The Regulator is to cause a copy of the state of the industry report to be –
 - (a) laid before each House of Parliament within 7 sitting-days after preparing it; and
 - (b) made available to members of the public in such a manner as the Regulator considers appropriate.

8B. Enforcement of Act by Regulator

- (1) If the Regulator is satisfied that a gas entity has contravened this Act or the conditions of the licence held by the gas entity, the Regulator may impose on the gas entity a monetary penalty not exceeding –
 - (a) 5 000 penalty units for the first day on which the contravention occurs; and
 - (b) a further fine not exceeding 200 penalty units for each subsequent

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Part 6 – Gas Act 2000 Amended

day on which the contravention continues.

- (2) If there is more than one gas entity that may be taken to have contravened this Act in respect of a single event, the Regulator may take any action under this section in respect of one or more such gas entities as the Regulator thinks fit.
- (3) A decision of the Regulator under this section may be subject to administrative review under Part 7.

75. Section 11 amended (Delegation)

Section 11 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “its,”;
- (b) by omitting from subsection (7) “its,”.

76. Section 26 amended (Licence term and renewal)

Section 26(5) of the Principal Act is amended by omitting “it” and substituting “the Regulator”.

77. Section 30 amended (Licences conferring exclusive franchise)

Section 30(4) of the Principal Act is amended by omitting “its” and substituting “his or her”.

PART 7 – GAS PIPELINES ACT 2000 AMENDED

78. Principal Act

In this Part, the *Gas Pipelines Act 2000** is referred to as the Principal Act.

79. Sections 7 and 7A inserted

After section 6 of the Principal Act, the following sections are inserted in Part 1:

7. State of the industry report

(1) In this section –

energy Minister means the Minister assigned the administration of Division 2 of Part 2.

(2) The Regulator may prepare a report on the state of the industries involved in regulated activities (the *state of the industry report*).

(3) The Regulator is to prepare a state of the industry report –

(a) on the Regulator’s own initiative;
or

(b) if directed to do so by the energy Minister and the Minister assigned the administration of the *Economic Regulator Act 2009*.

*No. 91 of 2000

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Part 7 – Gas Pipelines Act 2000 Amended

- (4) A direction under subsection (3)(b) to prepare a state of the industry report may include the terms of reference for that state of the industry report.
- (5) The Regulator is to cause a copy of the state of the industry report to be –
 - (a) laid before each House of Parliament within 7 sitting-days after preparing it; and
 - (b) made available to members of the public in such a manner as the Regulator considers appropriate.

7A. Enforcement of Act by Regulator

- (1) If the Regulator is satisfied that a person who holds a pipeline licence has contravened this Act or the conditions of that licence, the Regulator may impose on the person a monetary penalty not exceeding –
 - (a) 5 000 penalty units for the first day on which the contravention occurs; and
 - (b) a further fine not exceeding 200 penalty units for each subsequent day on which the contravention continues.
- (2) If there is more than one person that may be taken to have contravened this Act in respect of a single event, the Regulator

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may take any action under this section in respect of one or more such persons as the Regulator thinks fit.

- (3) A decision of the Regulator under this section may be subject to administrative review under Part 6.

80. Section 11 amended (Application for pipeline licence)

Section 11(6) of the Principal Act is amended by omitting “Tasmania” and substituting “Tasmania, or in such other manner as the Regulator considers appropriate”.

81. Section 42 amended (Public notification to be given in *Gazette*, &c.)

Section 42(2) of the Principal Act is amended by omitting “Tasmania” and substituting “Tasmania, or in such other manner as the Regulator considers appropriate”.

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Part 8 – Metro Tasmania Act 1997 Amended

PART 8 – METRO TASMANIA ACT 1997 AMENDED

82. Principal Act

In this Part, the *Metro Tasmania Act 1997** is referred to as the Principal Act.

83. Part 3A inserted

After section 18 of the Principal Act, the following Part is inserted:

PART 3A – FARES ORDER

18A. Interpretation

In this Part –

Company review means a review required to be conducted under section 18B(1);

fares order means the fares order made, and in effect, under section 18I;

final report means a report prepared under section 18H(1);

relevant services means public transport services provided by the Company;

*No. 78 of 1997

Secretary means Secretary of the Department;

terms of reference means the terms of reference for a Company review.

18B. Requirement to conduct Company review

- (1) At least 18 months before the expiration of a fares order, the Minister is to require the Secretary to conduct a review into the performance of the Company in respect of relevant services.
- (2) A requirement under subsection (1) is to contain the terms of reference for the Company review.
- (3) The Minister may amend, by written notice provided to the Secretary and the Company, a requirement under subsection (1) to conduct a review if the Secretary has not made a final report in respect of the review.

18C. Terms of reference

The terms of reference for a Company review are to specify –

- (a) the relevant services, and areas of performance, of the Company to be reviewed; and
- (b) the day by which the Secretary is to provide a final report in respect

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of the review, being a day that is at least 150 days before the expiry of the fares order that triggered the Company review; and

- (c) that the Secretary is required to make a recommendation in relation to appropriate maximum prices to be charged for relevant services during the period for which a fares order made as a result of the review would be in force.

18D. Notice of Company review

- (1) On receipt of a requirement to conduct a Company review, the Secretary is to give written notice of the Company review to –
 - (a) the Company; and
 - (b) any other person the Secretary thinks appropriate.
- (2) A notice under subsection (1) is to –
 - (a) specify the purpose of the review; and
 - (b) specify the period during which the review is to be held; and
 - (c) specify the period within which, and the form in which,

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submissions may be made to the Secretary as part of the review; and

- (d) include a copy of the terms of reference for the review.
- (3) If the Minister amends, under section 18B(3), a requirement to conduct a Company review, the Secretary is to notify that amendment to each person who received a notice under subsection (2) in respect of the review.

18E. Conduct of Company review

- (1) The Secretary may conduct a Company review in such manner as the Secretary considers appropriate.
- (2) In conducting a Company review, the Secretary is not bound by rules of evidence but may inform himself or herself in such manner as he or she considers appropriate.
- (3) Except as authorised or required by law, the Secretary is not to publish or otherwise divulge a document, part of a document, or other information, that came into his or her possession as a result of conducting a Company review if that document, part or information is or contains information which, if published, could cause damage to the commercial interests of the Company.

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- (4) The *Personal Information Protection Act 2004* and the *Right to Information Act 2009* do not apply in respect of –
- (a) documents and information referred to in subsection (3) that are provided to the Secretary as part of a Company review; or
 - (b) records of the giving or production of such documents and information.

18F. Requiring person to provide documents or information

- (1) For the purposes of a Company review, the Secretary may require, by written notice, the Company, or a member or employee of the Company, to do one or more of the following:
- (a) provide to the Secretary, in the manner specified in the notice, any document so specified which is in the person's possession or control and which, in the opinion of the Secretary, is relevant to the review;
 - (b) provide to the Secretary, in the manner specified in the notice, any other information so specified which, in the opinion of the Secretary, is relevant to the review.

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- (2) The Company, or a member or employee of the Company, must comply with a written notice provided by the Secretary under subsection (1).

18G. Draft report

- (1) At least 12 months before the expiry of a fares order, the Secretary is to –
- (a) prepare a draft report in respect of the Company review; and
 - (b) provide a copy of the draft report to the Minister and the Company.
- (2) No later than 21 days after providing the Minister with a copy of the draft report under subsection (1), the Secretary is to make copies of the draft report available as the Secretary considers appropriate.
- (3) After preparing a draft report, the Secretary is to –
- (a) allow persons and bodies to whom a copy of the draft report is provided, or made available, to make submissions to the Secretary in respect of the report; and
 - (b) take any such submissions into consideration before making a final report.

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18H. Final report

- (1) The Secretary, by the day specified in the terms of reference, is to –
 - (a) prepare a final report in respect of the Company review; and
 - (b) provide a copy of that final report to the Minister and the Company.
- (2) The final report prepared under subsection (1) is to –
 - (a) be consistent with this Part and the terms of reference; and
 - (b) make a recommendation in relation to the appropriate maximum prices chargeable by the Company during the period that any fares order that may result from the review would be in force.
- (3) Within 20 sitting-days after receiving a final report, the Minister is to lay a copy of the final report before each House of Parliament.
- (4) The Secretary is to ensure that copies of the final report are available to members of the public.

18I. Fares order

- (1) Within 90 days after receiving a copy of a final report under section 18H in respect of a Company review, the Minister is to make an order specifying the maximum prices which may be charged by the Company in respect of the relevant services during the period in which the order is in force, taking into consideration –
 - (a) the recommendations contained in that final report; and
 - (b) any comments received from the Company in relation to that final report.
- (2) A fares order –
 - (a) is to repeal, rescind, revoke or amend any statutory rule that prescribes, or relates to the setting or determination of, the price chargeable by the Company for the relevant services in respect of which the order is made, to ensure that the only statutory rule setting or determining, or relating to the setting or determination of, the maximum price chargeable is the order itself; and
 - (b) takes effect on the 61st day after notification of its making is published in the *Gazette*; and

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- (c) may only be in force for a period not exceeding 5 years; and
 - (d) is a statutory rule within the meaning of the *Rules Publication Act 1953*.
- (3) Section 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to a fares order as if it were regulations within the meaning of that Act.
- (4) Despite subsection (3), a House of Parliament may pass a resolution to approve a fares order at any time within the first 15 sitting-days of that House after the order is laid before it.
- (5) The Treasurer may not, under section 3(2) of the *Subordinate Legislation Act 1992*, declare a fares order to be subordinate legislation for the purposes of that Act.
- (6) A fares order may be amended at any time even if a Company review in respect of the relevant services to which the order relates has not been conducted since the making of the order.

18J. Action by Company following fares order

- (1) Within the period of 45 days immediately after a fares order is made, the Company is to –

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-
- (a) determine, in relation to the relevant services specified in the fares order –
 - (i) the prices that are to be charged by the Company during the period in which the order is in force; and
 - (ii) the prices to be charged on the day on which the order takes effect and the period during which those prices will apply; and
 - (b) lodge with the Secretary an application for the approval of those prices, together with any supporting information the Secretary may require.
- (2) At any time after an application is lodged with the Secretary under subsection (1)(b), the Company may lodge an application with the Secretary to amend the prices to be charged by the Company in respect of the relevant services specified in the fares order.
- (3) The Secretary –
- (a) is to approve the determination or amendment by the Company of its prices, in respect of the relevant services specified in the fares order, if the Secretary is satisfied that the prices as

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determined or amended would be
consistent with the fares order;
and

- (b) is not to approve such a
determination or amendment
unless it is so satisfied.
- (4) The Company is not to amend the prices
determined under subsection (1), and
approved under subsection (3), unless it
has the written approval of the Secretary
to do so.
- (5) The Secretary is to give notice of his or
her approval, or disapproval, under
subsection (3) of the prices for the
Company of the relevant services
specified in the fares order within 15
days after receipt of the application for
approval for those prices under
subsection (1)(b).

18K. Transitional provisions

- (1) In this section –

commencement day means the day on
which the *Economic Regulator
Amendment Act 2015*
commences;

existing order means the *Economic
Regulator (Metro Bus Fares)
Order 2014*;

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existing report means the final report prepared under section 35 of the *Economic Regulator Act 2009* in respect of metro fares that was tabled in both Houses of Parliament on 26 June 2014.

- (2) On and after the commencement day, the existing order –
- (a) is taken to have been made under section 18I; and
 - (b) is the fares order in effect in respect of this Part; and
 - (c) remains in effect on the same terms and conditions as it was in force immediately before the commencement day.
- (3) If, after the commencement day, the Minister intends to make a fares order under this Part that sets the maximum price chargeable by the Company for a period of time (the ***relevant period***) for which recommendations have been made in the existing report –
- (a) the investigation undertaken under the *Economic Regulator Act 2009* in respect of which the existing report was prepared is taken to be a review under section 18B in respect of the relevant period; and

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- (b) the existing report is taken to be a final report under section 18H in respect of the relevant period; and
 - (c) the reporting requirements of this Part are taken to have been complied with in respect of the relevant period; and
 - (d) the requirement in section 18I for the fares order to be made within 90 days after receiving the final report does not apply in respect of the fares order; and
 - (e) the Minister is to take into account the relevant recommendations specified in the existing report for the relevant period when making the fares order.
- (4) Nothing in this section is taken to prevent the existing order from being amended or rescinded under this Part after the commencement day.

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Part 9 – Urban Drainage Act 2013 Amended

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PART 9 – URBAN DRAINAGE ACT 2013 AMENDED

84. Principal Act

In this Part, the *Urban Drainage Act 2013** is referred to as the Principal Act.

85. Section 8 amended (Provision where commercial arrangements cannot be agreed)

Section 8(4)(b) of the Principal Act is amended by omitting “established” and substituting “appointed”.

*No. 71 of 2013

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s. 86 Part 10 – Water and Sewerage Industry (Pricing and Related Matters)
 Regulations 2011 Amended

**PART 10 – WATER AND SEWERAGE INDUSTRY
(PRICING AND RELATED MATTERS)
REGULATIONS 2011 AMENDED**

86. Principal Regulations

In this Part, the *Water and Sewerage Industry (Pricing and Related Matters) Regulations 2011** are referred to as the Principal Regulations.

87. Regulation 23 amended (Notice of investigation)

Regulation 23(5)(c) of the Principal Regulations is amended by omitting “Tasmania that” and substituting “Tasmania, or in such other manner, as”.

*S.R. 2011, No. 94

**PART 11 – WATER AND SEWERAGE INDUSTRY ACT
2008 AMENDED**

88. Principal Act

In this Part, the *Water and Sewerage Industry Act 2008** is referred to as the Principal Act.

89. Section 8 amended (Minister or Regulator may establish committees)

Section 8 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or the Regulator” after “The Minister”;
- (b) by inserting in subsection (1) “or the Regulator” after “the Minister”;
- (c) by omitting subsection (2) and substituting the following subsections:
 - (2) The members of a committee established under this section by the Minister are appointed and hold office on such terms and conditions as the Minister determines.
 - (3) The members of a committee established under this section by the Regulator are appointed and hold office on such terms and

*No. 13 of 2008

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conditions as the Regulator
determines.

**90. Section 14 amended (Delegation of Regulator’s
functions and powers)**

Section 14 of the Principal Act is amended by
omitting “its” and substituting “his or her”.

**91. Section 22 amended (Review, amendment and
replacement of codes)**

Section 22(1) of the Principal Act is amended by
omitting “its” and substituting “his or her”.

**92. Section 67 amended (General provisions relating to
determinations)**

Section 67(2)(b) of the Principal Act is amended
by inserting “or in such other manner as the
Regulator considers appropriate” after
“Tasmania”.

93. Section 70 amended (State of the industry report)

Section 70 of the Principal Act is amended by
omitting subsection (1) and substituting the
following subsections:

(1) The Regulator is to prepare a report on
the state of the water and sewerage
industry (the *state of the industry*
report).

(1A) The state of the industry report –

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(a) is to be prepared –

(i) not more than 3 months before a regulated entity is required under section 65 to submit a proposed price and service plan for regulated services provided by the regulated entity; and

(ii) at any other time if required to do so by the Minister and the Minister assigned the administration of the *Economic Regulator Act 2009*; and

(b) is to report on the state of the water and sewerage industry since the last state of the industry report was prepared.

(1B) A requirement under subsection (1A)(a)(ii) to prepare a state of the industry report may include the terms of reference for that state of the industry report.

94. Section 80 amended (Grounds for review)

Section 80 of the Principal Act is amended as follows:

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- (a) by omitting from paragraph (a) “its” and substituting “his or her”;
- (b) by omitting from paragraph (b) “its” and substituting “his or her”.

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Part 12 – Miscellaneous

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PART 12 – MISCELLANEOUS

95. Consequential amendments of regulations do not prevent subsequent amendment

The amendment by this Act of a provision of any regulations does not prevent that or any other provision of those regulations from being amended or rescinded by a subsequent regulation.

96. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.