

# Utilities (Technical Regulation) Operating Certificate Fees Determination 2016

Disallowable instrument DI2016–263

made under the

**Utilities (Technical Regulation) Act 2014, section 110 (Determination of fees)**

## EXPLANATORY STATEMENT

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This explanatory statement relates to the Instrument as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the Instrument and to help inform debate on it. It does not form part of the Instrument and has not been endorsed by the Assembly.

The Statement must be read in conjunction with the Instrument. It is not, and is not meant to be, a comprehensive description of the Instrument. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

### Background

This Determination is a disallowable instrument under the *Utilities (Technical Regulation) Act 2014* (the Act). The Act provides a technical regulatory framework for regulated utilities in the Australian Capital Territory. Section 110 of the Act authorises the Technical Regulator to determine fees.

### Determination

This Disallowable Instrument is the *Utilities (Technical Regulation) Operating Certificate Fees Determination 2016* (the Instrument) and determines fees the Technical Regulator may impose on an unlicensed regulated utility service when applying for the grant of an operating certificate and ongoing audit and compliance.

### Overview

The purpose of this Instrument is to determine the fees payable for applying for the grant of an operating certificate to an unlicensed regulated utility service and ongoing audit and compliance fees. The fees will assist in recovering the costs incurred by the Technical Regulator in meeting the Regulator's obligations under the Act. Cost recovery is not sought for policy development or for reasonable initial advice.

The nil fee for the grant of an operating certificate where a regulatory plan is not required has been determined for small existing utilities that have been designed, built and

inspected in compliance with the *Electricity Safety Act 1971*, the *Water and Sewerage Act 2000* or the *Gas Safety Act 2000*. A small installation might be captured under the Act because of the size of their output (for example, solar panels on a large warehouse roof). There is no intention to impose an additional financial or legislative burden; however, some owners may want the reassurance of a compliance operating certificate.

The type of operating certificate that may be required depends on the kind and size of the regulated utility service being provided. These could include a Design and Construct Operating Certificate for larger installations issued prior to the construction of infrastructure or a Provision of Service Operating Certificate issued when the unlicensed regulated utility service is ready to commence providing the service. A Compliance Operating Certificate may be issued to smaller installations designed, built and inspected in compliance with the *Electrical Safety Act 1971*, the *Water and Sewerage Act 2000* or the *Gas Safety Act 2000*.

Further information on operating certificates can be found in *Operating Certificates: A guide for unlicensed regulated utility services in the ACT* available from the Access Canberra website [www.accesscanberra.act.gov.au](http://www.accesscanberra.act.gov.au)

## **Outline of the provisions**

### Section 1 - Name of instrument

This section names the instrument as *Utilities (Technical Regulation) Operating Certificate Fees Determination 2016*.

### Section 2 - Commencement

This section provides for the commencement of the instrument on the day after it is notified.

### Section 3 – Determination of fees

This section determines the fees payable as outlined in the schedule.

### Section 4 – Payment of fees

This section determines that fees are payable to the ACT Government by the person requesting the goods or services in the schedule.

## **Consultation**

The Utilities Technical Regulation team has consulted with the current known unlicensed regulated utilities: three solar farms (developers and engineering contractors building the facilities), and Transport Canberra and City Services (as CMA and TAMS, for the light rail, inner north reticulation network, and dams).

## **Regulatory Impact Statement (RIS)**

A Regulatory Impact Statement has been provided for this disallowable instrument.