



AUSTRALIAN CAPITAL TERRITORY

Essential Services (Continuity of Supply) Act 1992

No. 38 of 1992

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AUSTRALIAN CAPITAL TERRITORY

Essential Services (Continuity of Supply) Act 1992

No. 38 of 1992

An Act to provide for the continuity of essential services to persons suffering substantial financial hardship

[Notified in ACT Gazette S103: 8 July 1992]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Essential Services (Continuity of Supply) Act 1992*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Interpretation

3. In this Act, unless the contrary intention appears—

“account”, in relation to an essential service, means a written statement of the amount payable by a customer to the relevant service provider in respect of that essential service;

“application” means an application for relief under this Act;

“customer” means a person to whom an essential service is being provided for domestic use;

“essential service” means the provision of electricity or any other prescribed service;

“Review Committee” means the Essential Services Review Committee established under this Act;

“service provider” means an authority or body that provides an essential service;

“withdrawal”, in relation to an essential service, means the discontinuance or reduction of that service by reason only that an account for that service has not been paid.

Application

4. Nothing in this Act affects the operation of the *Rates and Land Rent (Relief) Act 1970* or of section 78 of the *Electricity and Water Act 1988*.

PART II—ESSENTIAL SERVICES REVIEW COMMITTEE**Establishment**

5. For the purposes of this Act, there shall be an Essential Services Review Committee.

Appointments

6. (1) The Minister shall appoint a Chairperson and a Deputy Chairperson of the Review Committee.

(2) Where the Chairperson or Deputy Chairperson is, or is about to be, absent or not available to perform the functions of his or her office or there is a vacancy in the office of Chairperson or Deputy Chairperson, the Minister may appoint a person to act as Chairperson or Deputy Chairperson while he or she is absent or not available to perform those functions or until the filling of the vacancy, as the case may be.

(3) The Minister shall not appoint, under subsection (1) or (2), a person who is an employee of a service provider or a welfare agency.

Composition

7. (1) Subject to subsection (4), the Review Committee shall, for the purpose of considering an application, consist of—

- (a) the Chairperson or the Deputy Chairperson;
- (b) a person chosen in accordance with subsection (2); and
- (c) a person chosen in accordance with subsection (3).

(2) The member referred to in paragraph (1) (b) shall be a person chosen by the Chairperson or Deputy Chairperson from a panel of not less than 3 persons who have had experience in assisting or otherwise working with persons suffering financial hardship, being persons nominated to the panel by the Minister.

(3) The member referred to in paragraph (1) (c) shall be a representative of the relevant service provider chosen by the Chairperson or Deputy Chairperson from a panel of representatives of service providers nominated by the Minister.

(4) Where, before the completion of the consideration of an application, a member of the Committee ceases to be available, the remaining members of the Committee may continue to consider the application and the Committee shall be taken to be duly constituted for that purpose.

Defect in appointment

8. An action of the Review Committee is not rendered invalid by reason only of a defect or irregularity in the appointment of a member of the Committee.

Removal from office

9. (1) The Minister may remove the Chairperson or Deputy Chairperson of the Review Committee from office for misbehaviour or physical or mental incapacity.

(2) If the Chairperson or Deputy Chairperson—

- (a) 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 remuneration for their benefit;
- (b) becomes of unsound mind; or

- (c) is convicted in Australia of an offence punishable by imprisonment for 1 year or longer;

the Minister shall remove the Chairperson or Deputy Chairperson from office.

Resignation

10. The Chairperson or Deputy Chairperson of the Review Committee may resign his or her office by tendering a written resignation to the Minister.

Function

11. The function of the Review Committee is to consider and decide applications.

Remuneration and allowances

12. (1) The members of the Review Committee engaged in a meeting of the Committee are entitled to be paid such remuneration and allowances as are prescribed.

(2) Subsection (1) does not apply to a member of the Review Committee—

- (a) in relation to remuneration—if there is a subsisting determination relating to the remuneration to be paid to that member; or
- (b) in relation to an allowance of a particular kind—if there is a subsisting determination relating to an allowance of that kind to be paid to that member.

(3) An amount to which a member of the Review Committee is entitled under subsection (1), or pursuant to a determination, is payable to the member by the relevant service provider.

(4) In this section—

“determination” means a determination of the Remuneration Tribunal of the Commonwealth.

Terms and conditions

13. The members of the Review Committee hold office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined by the Minister.

PART III—APPLICATIONS

Withdrawal of essential services

14. (1) A service provider shall not withdraw an essential service from a customer unless—

- (a) the service provider has caused a written notice in accordance with subsection (2) to be served on the customer;
- (b) a period of not less than 7 days has elapsed since that notice was served; and
- (c) the service provider has not been notified under section 16 of an application in relation to the relevant account.

(2) A notice referred to in paragraph (1) (a) shall state that—

- (a) the service provider intends to withdraw the essential service after the expiration of 7 days unless the relevant account has been paid; and
- (b) if payment of the account would cause substantial financial hardship an oral or written application may be made to the Review Committee for relief under this Act.

Application for relief

15. (1) A person who is, or is likely to be, directly affected by the withdrawal of an essential service may apply in writing or orally to the Review Committee for relief under this Act on the ground that payment of the relevant account would result in substantial financial hardship.

(2) The Review Committee shall not consider an oral application unless it has been confirmed in writing within 1 week after the making of the oral application, or within such further period as may be allowed by the Committee.

(3) A written application or a written confirmation of an oral application shall—

- (a) be substantially in accordance with a form approved by the Chairperson of the Review Committee and published in the *Gazette*;
- (b) be signed by the applicant; and
- (c) be lodged at the office of the Chairperson of the Committee.

Effect of application

16. (1) On receiving an application the Review Committee shall notify the relevant service provider of the application.

(2) Where a service provider is notified of an application, it shall furnish the Review Committee with a copy of its records concerning the account for the relevant essential service.

(3) Where a service provider is notified of an application, it shall—

- (a)** if the relevant essential service has not been withdrawn—maintain that service; and
- (b)** if the relevant essential service has been withdrawn—restore and maintain that service;

pending consideration of the application by the Review Committee.

(4) Subsection (3) does not apply during any period when a failure to maintain or to restore an essential service is not by reason only of an account for that service not having been paid.

PART IV—PROCEDURE**Privacy**

17. (1) An application shall be considered in private by the Review Committee at such time and place as the Chairperson or Deputy Chairperson notifies in writing to the applicant and the service provider.

(2) The notice to the applicant shall include a statement to the effect that if the Review Committee refuses the application as being entirely without merit, the Committee may order the applicant to pay the sum of \$50 to the Territory.

Representation

18. On the consideration of an application—

- (a)** the applicant may appear and be heard in person or by an agent; and
- (b)** the relevant service provider may appear and be heard by a duly authorised officer, employee or agent of that body.

Presiding member

19. (1) The Chairperson or the Deputy Chairperson shall preside at a meeting of the Review Committee.

(2) In the absence of the Chairperson or the Deputy Chairperson, the member referred to in paragraph 7 (1) (b) shall preside.

Expedition and informality

20. (1) The Review Committee—

- (a) shall consider an application as expeditiously as possible; and
- (b) may regulate its own procedure.

(2) A meeting of the Review Committee shall be conducted informally without minutes being kept.

(3) The Review Committee may consider together 2 or more applications where the applications concern the same applicant and the same service provider.

(4) Information may be given to the Review Committee orally or in writing.

(5) The Review Committee may inform itself in relation to any matter that it considers relevant to an application.

Costs

21. (1) The applicant and the service provider shall bear their own respective costs arising from the application.

(2) An amount equal to the administrative costs of a meeting of the Review Committee is payable by the relevant service provider.

PART V—RELIEF

Power of Committee

22. After considering an application the Review Committee may, by instrument in writing—

- (a) if satisfied that the payment of the relevant amount would result in substantial financial hardship—
 - (i) direct the service provider not to withdraw the essential service—
 - (A) before the expiration of a specified period; or

- (B) unless the applicant fails to comply with a condition specified in the instrument pursuant to section 23;
 - (ii) declare that the payment of a specified amount within a specified time shall be taken to discharge liability in respect of the account in accordance with the declaration; or
 - (iii) declare that all liability in respect of the account shall be taken to be discharged; or
- (b) if not so satisfied—refuse the application.

Conditions

23. A decision on an application in accordance with sub-subparagraph 22 (a) (i) (B) may be expressed to be subject to any of the following conditions:

- (a) the reduction of the essential service;
- (b) the payment of the relevant amount by a specified date or by specified instalments;
- (c) the submission of the applicant to financial counselling;
- (d) that the applicant agrees to arrangements being made for payment of the relevant amount by a financial institution on his or her behalf;
- (e) such other conditions as the Review Committee considers appropriate to the circumstances.

Decision

24. (1) A decision of the Review Committee shall be in writing and shall be signed by the members of the Committee.

(2) As soon as practicable after a decision has been made, the Chairperson of the Review Committee shall ensure that the applicant and the relevant service provider are provided with a copy of the decision.

(3) Where the Review Committee considers that a decision made by it ought in the public interest to be published, it may cause the decision to be published in such manner as will preserve the identity of the applicant and any persons residing with the applicant.

(4) The decision of the Review Committee in respect of an application shall be binding as between the applicant and the relevant service provider.

Abuse of process

25. (1) Where the Review Committee refuses an application as being entirely without merit, the Committee may direct the applicant to pay the sum of \$50 to the service provider on behalf of the Territory.

(2) An amount directed to be paid under subsection (1) is recoverable as a debt to the Territory.

Effect of declaration

26. Where the Review Committee makes a declaration under subparagraph 22 (a) (ii) or (iii), the liability in respect of the relevant account shall be taken to be discharged in part or in whole, as the case requires, in accordance with the declaration.

Premature withdrawal of services

27. If a service provider fails to maintain an essential service to a customer in circumstances that involve a contravention of subsection 14 (1) or 16 (3) or a direction under subparagraph 22 (a) (i)—

- (a) the service provider is guilty of an offence punishable, on conviction, by a fine not exceeding \$5,000 for each day during which the offence continues; and
- (b) liability in respect of the relevant account shall be taken to be wholly discharged.

PART VI—MISCELLANEOUS

Regulations

28. The Executive may make regulations, not inconsistent with this Act, prescribing—

- (a) matters required or permitted by this Act to be prescribed; or
- (b) matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.

[Presentation speech made in Assembly on 18 June 1992]