



Australian Capital Territory

Utilities Act 2000

A2000-65

Republication No 37

Effective: 1 July 2012 – 1 July 2013

Republication date: 1 July 2012

Last amendment made by [A2012-32](#)

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Utilities Act 2000* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 July 2012. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 July 2012.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Utilities Act 2000

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
3	ICRC's objects 2
4	Dictionary 3
5	Notes 3
5A	Offences against Act—application of Criminal Code etc 3
Part 2	Utility services
Division 2.1	Electricity
6	Electricity services 4
7	Electricity network 4
Division 2.2	Natural gas
8	Gas—terminology 5
9	Gas services 5

R37
01/07/12

Utilities Act 2000
Effective: 01/07/12-01/07/13

contents 1

Contents

	Page
10 Gas networks	6
Division 2.3 Water	
11 Water services	7
12 Water network	7
Division 2.4 Sewerage	
13 Sewerage services	8
14 Sewerage network	8
Division 2.5 Miscellaneous	
15 Prescribed utility services	9
16 Network boundary	9
17 Customers	10
18 Declaration of non-franchise customers	10
19 Ministerial directions	11
20 Other laws not affected	11
Part 3 Licensing of utilities	
Division 3.1 General	
21 Requirement for licence	13
22 Exemption	13
Division 3.2 Terms of licences	
23 Licensed utility services	14
24 Duration	14
25 General conditions	14
26 Technical and prudential criteria	15
27 Special conditions—water supply services	16
28 Special conditions—electricity distribution	16
31 Special conditions—gas distribution	16
32 Rights under licences	17
33 Partnerships and other groups	17
Division 3.3 Licences	
34 Applications for certain licence decisions	18
35 Further information	18
36 Public consultation	19
37 Grant	20

	Page
38	21
39	22
40	23
41	23
42	24
Division 3.3A	Notification and review of ICRC decisions
43	25
43A	25
43B	25
Division 3.4	Annual licence fee
44	26
45	26
Division 3.5	Review and enforcement
46	28
47	29
48	29
49	30
50	31
Division 3.6	Miscellaneous
51	31
52	32
53	33
54	34
Part 3A	Energy industry levy
54A	35
54B	36
54C	36
54D	38
54E	39
54F	41
54G	42
54H	43
54I	44

Contents

	Page
54J	Production of relevant information etc 45
54K	Registration of energy utilities 45
54L	Offence—failure to register 46
54M	Returns under Taxation Administration Act 46
54N	Levy administrator 47
54O	Previously-licensed NERL retailer 47
Part 4	Industry codes
55	Contents 49
56	Application 50
56A	NERL retailers—determination of application of code 51
57	Draft codes 51
58	Approved codes 51
59	Determined codes 52
60	Public consultation 53
61	Variation 54
62	Notification and disallowance of codes etc 55
63	Public access 55
Part 5	Technical regulation
Division 5.1	Technical codes
64	Contents 57
64A	NERL retailers and NERL exempt sellers—determination of application of code 58
65	Application of industry code provisions 58
Division 5.2	Enforcement
66	Functions of director-general 59
67	Technical inspectors 60
68	Identity cards 60
69	Inspectors—functions 60
70	Directions about technical codes 60
71	Contravention of direction 61
72	Obtaining information and documents 62
73	Contravention of requirement under s 72 63

	Page
Division 5.3	Miscellaneous
74	Self-incrimination etc 63
Part 5A	NERL retailers and NERL exempt sellers
Division 5A.1	Preliminary
75	Meaning of <i>NERL retailer</i> 64
75A	Meaning of <i>NERL exempt seller</i> 64
75B	Application of Act to NERL retailers 64
75C	Application of Act to NERL exempt sellers 65
75D	Inconsistency between Act and NERL 66
Division 5A.2	NERL retailer obligations
Subdivision 5A.2.1	Greenpower
75E	Greenpower obligations—general 66
75F	Greenpower obligations—information on bills 68
75G	Exemption from greenpower obligations 68
Subdivision 5A.2.2	Enforcement
75H	Offence—contravention of code or s 75E 69
75I	Directions about code or s 75E 69
75J	Offence—contravention of direction 70
75K	Offence—contravention of s 75F 70
Part 6	Access to utility services
Division 6.1	Standard rights
77	Exercise of rights 71
78	Form of application 71
79	Electricity connection service 71
83	Water connection service 72
84	Water supply service 73
85	Sewerage connection service 73
86	Sewerage service 73
Division 6.2	Standard customer contracts
86A	Meaning of <i>utility service</i> —div 6.2 74
87	Terms 74
88	Draft contracts 74

Contents

	Page
89	74
90	76
91	76
92	76
93	77
94	78
Division 6.3	Negotiated customer contracts etc
94A	79
95	79
96	80
Division 6.4	Passing on supply costs
97	80
100	80
Division 6.5	Miscellaneous
101	82
Part 7	Network operations
Division 7.1	General
103	83
Division 7.2	General powers
104	83
105	84
106	85
107	86
Division 7.3	Performance of network operations
108	87
109	87
110	88
110A	89
111	90
112	92
113	92
Division 7.4	Authorised people
114	93

	Page
115 Identity cards	93
116 Entry to premises—network operations	94
117 Entry to premises—inspection of meters etc	94
Division 7.5 Miscellaneous	
119 Order to enforce exercise of functions	95
120 Ownership of network facilities	96
121 Clarifying ownership of certain network facilities	96
122 Effect of declaration under s 121	97
Part 8 Protection of networks	
Division 8.1 General	
123 Meaning of <i>interference</i>	98
Division 8.2 General interference	
124 Interference with networks	98
125 Network protection notices	99
125A Network protection action affecting heritage significance	101
Division 8.3 Contamination of water or sewerage networks	
126 Contamination of water	101
127 Prohibited substances—water or sewerage network	102
128 Exempt water treatments	102
Division 8.4 Miscellaneous	
129 Unauthorised network connections	103
130 Unauthorised abstraction etc of electricity	103
131 Unauthorised abstraction etc of gas	104
132 Unauthorised abstraction etc of water	104
133 Extended meaning of <i>network</i>	104
Part 9 Controller's power to take over operations	
Division 9.1 General	
134 Meaning of <i>utility</i> —pt 9	105
135 Appointment of controller	105
136 Controller's functions	106
137 Utility to cooperate	106
138 Reports to Minister	107

Contents

	Page
139 Ministerial directions	107
140 Contravention of controller's direction	107
142 Immunity from personal liability	107
Division 9.2 Compensation	
143 Right to compensation	107
144 Claims	108
145 Acceptance or rejection of claim	108
146 Acceptance or rejection of compensation offer	109
147 Payment	109
148 Role of court	109
149 Recovery of compensation	109
Part 9A Shortage of essential services	
149A Definitions for pt 9A	110
149B Restriction of utility service	110
149C Powers in relation to premises	110
149D Production of identity card	111
Part 10 Enforcement	
Division 10.1 General	
150 Definitions for pt 10	112
Division 10.2 ICRC inspectors	
152 Appointment	112
153 Identity cards	113
154 Power to enter premises	114
155 Production of identity card	114
156 Consent to entry	114
157 Warrants	115
158 Warrants—application made other than in person	116
159 Powers on entry to premises	118
160 Power to seize evidence	118
161 Receipt for things seized	119
162 Access to things seized	119
163 Return of things seized	120

	Page
Division 10.3	Technical inspectors
164	Powers to enter and inspect premises 120
Division 10.4	Authorised people for utility
165	Powers to enter and inspect premises 121
Division 10.5	Miscellaneous
166	Self-incrimination etc 121
Part 11	Certain causes of action against customer
167	Proceedings in Magistrates Court—amounts over \$10 000 123
168	Civil dispute applications to ACAT 123
Part 12	Complaints to ACAT about utilities
Division 12.1	Preliminary
169	Definitions—pt 12 125
170	Application—pt 12 125
171	Principles—pt 12 126
Division 12.2	Applications to ACAT
172	ACAT applications 126
173	Help with applications about failure to provide, or withdrawal of, utility services 127
174	Advising Minister etc about systemic problems 127
Division 12.3	Preliminary inquiries
175	Preliminary inquiries—registrar 128
Division 12.4	Dismissal of complaints
176	Dismissal of complaints about utilities 128
Division 12.5	Powers and decisions of ACAT
177	Complainant's records 129
178	ACAT decisions 130
179	Continuity of utility services—nonpayment of customer debt 131
180	Discharge of customer debt 131
181	Payment for loss or damage 132
182	Reviewable capital contribution charges 133
183	Reimbursement of utilities for customer debts discharged 133

	Page
Division 12.6	Confidential information
184	Protection of confidential information 133
Part 13	Community service obligations
219	Purposes of pt 13 135
220	Agreement to be sought 135
221	Direction by Minister 135
222	Determination of costs 136
223	Liability for costs 136
224	Compliance with direction 137
225	Arbitration of dispute about cost 137
Part 14	Streetlighting and stormwater
Division 14.1	General
226	Definitions for pt 14 138
227	Stormwater network 139
228	Stormwater network code and boundary 139
229	Streetlight network 140
230	Streetlight network code 140
Division 14.2	Territory network operations
Subdivision 14.2.1	General powers
231	Installation of territory network facilities 141
232	Maintenance of territory network facilities 142
233	National land 143
Subdivision 14.2.2	Performance of territory network operations
234	Damage etc to be minimised 144
235	Notice to land-holder 144
236	Notice about lopping trees etc on private land 145
237	Territory network operations affecting heritage significance 147
238	Notice to utilities 147
239	Removal of Territory's property and waste 148
240	Land to be restored 149
241	Compensation 149

	Page
Subdivision 14.2.3 Authorised people and entry to premises	
242 Territory service authorised people	150
243 Identity cards	151
244 Entry to premises—territory network operations	152
245 Entry to premises—inspection of connections etc	153
Subdivision 14.2.4 Miscellaneous	
246 Order to enforce exercise of functions	153
247 Ownership of territory network facilities	154
Division 14.3 Protection of territory networks	
248 Interference with territory networks	154
249 Territory network protection notices	154
250 Territory network protection action affecting heritage significance	157
Part 15 Vicarious liability	
251 References in pt 15 to <i>proceeding under this Act</i>	158
252 Liability of corporations	158
253 Liability of people other than corporations	159
Part 16 Miscellaneous	
254 Determination of fees	161
255 Approved forms—ICRC	161
256 Approved forms—Minister	161
257 Evidentiary certificate—Government programs	162
258 Evidence of authorisation by utility	162
259 Former water and sewerage rates schemes—extended operation	162
260 Compensation—safety net	163
260A Reminder notices and disconnection warning notices—ACAT direction	164
261 Regulation-making power	164
Part 18 Transitional—National Energy Retail Law	
402 Meaning of <i>commencement day</i> —pt 18	166
403 Licences	166
404 Existing retailer of last resort	166
405 Certain electricity services and gas services	167
406 Transitional regulations	167

Contents

407	Expiry—pt 18	Page 168
Schedule 1	Reviewable decisions	169
Dictionary		170
Endnotes		
1	About the endnotes	180
2	Abbreviation key	180
3	Legislation history	181
4	Amendment history	187
5	Earlier republications	211
6	Renumbered provisions	212



Australian Capital Territory

Utilities Act 2000

An Act to regulate the provision of services by certain utilities, and for other matters

Part 1 Preliminary

1 Name of Act

This Act is the *Utilities Act 2000*.

3 ICRC's objects

ICRC's objects under this Act are as follows:

- (a) to encourage the provision of safe, reliable, efficient and high quality utility services at reasonable prices;
- (b) to minimise the potential for misuse of monopoly power in the provision of utility services;
- (c) to promote competition in the provision of utility services;
- (d) to encourage long-term investment, growth and employment in utility service industries;
- (e) to promote ecologically sustainable development in the provision of utility services;
- (f) to protect the interests of consumers;
- (g) to ensure that advice given to ICRC by the ACAT, or the director-general under part 5 (Technical regulation), is properly considered;
- (h) to ensure the Government's programs about the provision of utility services are properly addressed;
- (i) to give effect to directions of the Minister under section 19.

4 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition ‘*customer*—see section 17 (Customers).’ means the term ‘customer’ is defined in that section.

Note 2 A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

5 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

5A Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The [Criminal Code](#), ch 2 applies to the following offence against this Act (see Code, pt 2.1):

- s 54J (Production of relevant information etc)
- s 75H (Offence—contravention of code or s 75E)
- s 75J (Offence—contravention of direction)
- s 75K (Offence—contravention of s 75F).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 *Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Part 2 Utility services

Division 2.1 Electricity

6 Electricity services

For this Act, each of the following is a *utility service*:

- (a) the distribution of electricity through an electricity network;
- (b) an electricity connection service.

7 Electricity network

- (1) For this Act, an *electricity network* consists of infrastructure used, or for use, in relation to the distribution of electricity by a person for supply to the premises of another person.
- (2) In this section:
infrastructure means—
 - (a) powerlines; or
 - (b) substations and equipment for monitoring, distributing, converting, transforming, or controlling electricity; or
 - (c) a structure supporting overhead powerlines; or
 - (d) wires, ducts or pipes for wires, or equipment; or
 - (e) any other thing ancillary to any other part of the infrastructure.
- (3) An *electricity network* does not include infrastructure that is outside the network boundary.

Division 2.2 Natural gas

8 Gas—terminology

(1) In this Act:

gas means natural gas.

(2) A term used in any of the following has the same meaning in this Act:

(a) *National Gas (ACT) Act 2008*;

(b) *National Gas (ACT) Law*;

(c) *National Gas (ACT) Regulation*.

Note A definition in an Act applies except so far as the contrary intention appears (see [Legislation Act](#), s 155).

(3) In this section:

natural gas—see the *National Gas (ACT) Law*, section 2.

9 Gas services

For this Act, each of the following is a *utility service*:

(a) the transmission of gas through a gas transmission network;

(b) the distribution of gas through a gas distribution network;

(c) a gas connection service.

10 **Gas networks**

- (1) For this Act, a **gas transmission network** consists of infrastructure used, or for use, in relation to the transmission of gas by a person through a transmission pipeline to a gas distribution network owned or operated by another person.
- (2) For this Act, a **gas distribution network** consists of infrastructure used, or for use, in relation to the distribution of gas by a person through a distribution pipeline for supply to premises of another person.
- (3) In this section:
distribution pipeline—see the *National Gas (ACT) Law*, section 2.
infrastructure means—
 - (a) pipelines; or
 - (b) meters; or
 - (c) any equipment (including pressure control devices, excess flow valves, control valves, actuators, electrical equipment, telemetry equipment, cathodic protection installations, compounds, pits, buildings, signs and fences); or
 - (d) any other thing ancillary to any other part of the infrastructure.**transmission pipeline**—see the *National Gas (ACT) Law*, section 2.
- (4) A **gas network** does not include infrastructure that is outside the network boundary.

Division 2.3 Water

11 Water services

For this Act, each of the following is a *utility service*:

- (a) the collection or treatment of water, or both, for distribution through a water network;
- (b) making a water network available for the provision of water connection services;
- (c) the distribution of water through a water network;
- (d) a water connection service;
- (e) the supply of water from a water network to premises for consumption.

12 Water network

- (1) For this Act, a *water network* consists of the infrastructure mentioned in subsection (2) used, or for use, in relation to any of the following purposes:
 - (a) the collection and treatment of water for distribution by a person to premises of another person;
 - (b) the distribution of water by a person for supply to premises of another person.
- (2) For subsection (1), the *infrastructure* consists of the following:
 - (a) water storages, mains and treatment plants;
 - (b) pumps, facilities and equipment for distributing water, or monitoring or controlling the distribution of water;
 - (c) pipes or equipment;
 - (d) any other thing ancillary to any other part of the infrastructure.

- (3) A *water network* does not include infrastructure that is outside the network boundary.

Division 2.4 Sewerage

13 Sewerage services

For this Act, each of the following is a *utility service*:

- (a) making a sewerage network available for the provision of sewerage connection services;
- (b) a sewerage connection service;
- (c) a sewerage service.

14 Sewerage network

- (1) For this Act, a *sewerage network* consists of the infrastructure mentioned in subsection (2) used, or for use, in relation to the provision of sewerage services by a person to premises of another person.
- (2) For subsection (1), the *infrastructure* consists of the following:
 - (a) sewage storages, trunk sewers, mains and treatment plants;
 - (b) pumps, facilities and equipment for conveying sewage, or monitoring or controlling the conveyance of sewage;
 - (c) pipes or equipment;
 - (d) any other thing ancillary to any other part of the infrastructure.
- (3) A *sewerage network* does not include infrastructure that is outside the network boundary.

Division 2.5 Miscellaneous

15 Prescribed utility services

- (1) The regulations may prescribe—
 - (a) a service related or ancillary to a utility service mentioned in division 2.1, 2.2, 2.3 or 2.4; or
 - (b) a service complementary to the operations of a utility;
to be a utility service.
- (2) The regulations may prescribe the utility network, and the infrastructure it consists of, for a utility service prescribed by regulations under subsection (1).
- (3) Regulations made for this section may—
 - (a) exempt a person from a stated requirement under this Act; and
 - (b) state the circumstances in which an exemption applies.

16 Network boundary

- (1) The boundary of a network is to be ascertained in accordance with the relevant industry code.
- (2) Without limiting the operation of subsection (1), the industry code may deal with the boundary of a network by reference to a point of connection between the network and—
 - (a) customers' premises; or
 - (b) any other network.

17 **Customers**

- (1) In this Act:

customer, for a utility service, means—

- (a) a person for whom the service is provided under a customer contract; or
- (b) a person who has applied, orally or in writing, to the relevant utility for the service to be provided under a customer contract.

franchise customer, in relation to the supply of water to premises, means a customer other than a non-franchise customer for the supply to the premises.

non-franchise customer, for the supply of water to premises, means a person who has that status because of a declaration under section 18.

- (2) For subsection (1), definition of *customer*, paragraph (b), an application for a connection or supply service in relation to water or sewerage includes an application by, or for, a person for approval of a plan for plumbing or drainage work to connect premises to the relevant network.
- (3) For this Act, a customer to whom a declaration under section 18 applies is a non-franchise customer for a utility service only in the circumstances to which the declaration relates.

18 **Declaration of non-franchise customers**

- (1) The Minister may declare a person to be a non-franchise customer in relation to the supply of water to premises.

Note Power to make a statutory instrument (including a declaration) includes power to make different provision for different categories (see [Legislation Act](#), s 48).

- (2) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

19 Ministerial directions

- (1) A direction under this section may be given only to ensure the achievement of the objects set out in section 3 (a) to (h).
- (2) The Minister may give a direction to ICRC about the results it must achieve by—
 - (a) licence conditions; or
 - (b) industry codes.
- (3) A direction may be given generally or in relation to a particular matter.
- (4) ICRC must give effect to the direction as far as practicable.
- (5) A direction is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

20 Other laws not affected

- (1) This Act is in addition to, and does not limit, any other Act.
- (2) In particular, nothing in this Act affects the exercise of a function under, or the obligation of a utility to comply with a requirement of or under, any of the following:
 - (a) the [Electricity Safety Act 1971](#);
 - (b) the [Emergencies Act 2004](#);
 - (c) the [Environment Protection Act 1997](#);
 - (d) the [Australian Consumer Law \(ACT\)](#);
 - (e) the [Gas Safety Act 2000](#);
 - (f) the [National Gas \(ACT\) Act 2008](#);
 - (g) the [National Gas \(ACT\) Law](#);
 - (h) the [National Gas \(ACT\) Regulation](#);

- (i) the *Planning and Development Act 2007*;
- (j) the *Water and Sewerage Act 2000*;
- (k) the *Water Resources Act 2007*;
- (l) the *Work Health and Safety Act 2011*.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see [Legislation Act](#), s 104).

Part 3 Licensing of utilities

Division 3.1 General

21 Requirement for licence

- (1) A person must not provide a utility service except in accordance with a licence.

Maximum penalty: 3 000 penalty units.

- (2) A person who contravenes subsection (1) commits a separate offence for each day (after the first day) during any part of which the contravention continues.
- (3) An offence against subsection (2) is punishable, on conviction, by a fine not exceeding 600 penalty units.
- (4) To avoid any doubt, subsection (1) does not apply to the provision of a utility service by a person as an agent of a utility.

22 Exemption

- (1) The Minister may exempt a person from the requirement for a licence in relation to a utility service.

Note Power given under an Act to make a statutory instrument includes power to make different provision for different categories, eg different classes of people or services (see [Legislation Act](#), s 48).

- (2) An exemption is subject to compliance with any condition stated in the instrument of exemption.
- (3) A exemption is a disallowable instrument.

Note 1 The conditions on an exemption may, for example, require compliance with certain requirements under the Act in relation to safety and technical matters.

Note 2 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

Division 3.2 Terms of licences

23 Licensed utility services

A licence may be for 1 or more stated utility services, for example—

- (a) in 1 or more areas; or
- (b) for 1 or more classes of people.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

24 Duration

A licence may be in force indefinitely or for a term stated in the licence.

25 General conditions

- (1) A licence is subject to—
 - (a) the conditions imposed from time to time by this Act; and
 - (b) any other condition stated in the licence by ICRC that is not inconsistent with a requirement of, or under, this Act or any other law of the Territory.
- (2) A licence is subject to the following conditions:
 - (a) that the utility comply with each of the following:
 - (i) any requirement under this Act or a related law;
 - (ii) a requirement under any other law in force in the Territory that applies to the utility in relation to the provision of a utility service;
 - (iii) each industry code that applies to the utility;
 - (iv) each technical code that applies to the utility;

- (v) a direction given to it by ICRC under this Act or a related law;
- (vi) a direction given to it by the director-general under part 5;
- (b) that the utility maintains the capacity, as determined in accordance with the relevant technical and prudential criteria adopted by ICRC from time to time under section 26—
 - (i) to comply with the licence conditions; and
 - (ii) to operate a viable business as a licensee;
- (c) that the utility keep all records and documents necessary to enable it to meet any reporting requirement, or any requirement to produce a record or document, under this Act or another condition of its licence;
- (d) that the utility give ICRC, in accordance with any written requirements by ICRC, an annual report for each financial year in relation to—
 - (i) the exercise of its functions under this Act; and
 - (ii) its compliance with the conditions of the licence.

26 Technical and prudential criteria

- (1) ICRC must, in writing, adopt technical and prudential criteria for determining whether a utility, or an applicant for a licence, has the capacity—
 - (a) to comply with licence conditions; and
 - (b) to operate a viable business as licensee.
- (2) ICRC must, on request in writing by a utility, or an applicant or prospective applicant for a licence, give the person particulars of the relevant technical and prudential criteria.

- (3) Section 38 applies to a variation of the criteria adopted in relation to a particular utility in the same way as it applies to a variation of a licence.

27 Special conditions—water supply services

A licence to supply water is, in addition to the conditions mentioned in section 25, subject to the following conditions:

- (a) that the utility supply only customers of the kind to which the licence relates;
- (b) if the licence is for supply to franchise customers—that the water is supplied in accordance with the terms of the utility’s standard customer contract for the supply (except to the extent that the customer and utility agree to other terms).

28 Special conditions—electricity distribution

- (1) A licence to distribute electricity is, in addition to the conditions mentioned in section 25, subject to the condition that the utility comply with each applicable determination made by ICRC as the jurisdictional regulator under the national electricity rules.
- (2) In this section:

jurisdictional regulator—see the [ICRC Act](#), section 4A (4) (National electricity rules—electricity distribution and transmission pricing).

31 Special conditions—gas distribution

A licence to distribute gas is, in addition to the conditions mentioned in section 25, subject to the condition that the distributor must—

- (a) on request by a NERL retailer or other person; and
- (b) on payment to the distributor of any relevant capital contribution charge;

connect the premises to which the request relates to the distributor's network.

32 Rights under licences

The rights conferred by a licence—

- (a) are subject to the operation of this Act and each related law and, in particular, are subject to a declaration under section 18; and
- (b) are not exclusive, unless the licence provides otherwise.

33 Partnerships and other groups

- (1) A licence granted to a member of a group on behalf of the group is taken to have been granted to the group.
- (2) This Act and each related law apply to the group as if it were a person, but with the following changes:
 - (a) a function that would be exercisable by the group may be exercised by any member;
 - (b) an obligation that would be imposed on the group is imposed instead on each member, but may be discharged by any member;
 - (c) a liability that would be imposed on the group is imposed instead, jointly and severally, on each member;
 - (d) an offence against this Act or a related law that would otherwise be committed by the group is taken to have been committed by each member.
- (3) In a prosecution of a person for an offence that the person is taken to have committed because of subsection (2) (d), it is a defence if the person proves that he or she—
 - (a) did not aid, abet, counsel or procure the relevant act or omission; or

- (b) was not in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the person).
- (4) If, under this Act or a related law, a document is given to a member of a group, it is taken to have been given to the group.
- (5) In this section:
 - group* means—
 - (a) a partnership under the *Partnership Act 1963*; or
 - (b) joint venturers or a consortium, syndicate or other unincorporated body of 2 or more people.

Division 3.3 Licences

34 Applications for certain licence decisions

An application for any of the following must be made to ICRC:

- (a) the grant of a licence;
- (b) ICRC's agreement to the transfer of a licence;
- (c) the variation of a licence;
- (d) an exemption from compliance with a licence condition.

Note 1 A fee may be determined under s 254 for this section.

Note 2 If a form is approved under s 255 for an application, the form must be used.

35 Further information

- (1) ICRC may, by written notice given to an applicant, require the applicant to give ICRC further stated information or documents that ICRC reasonably requires to determine the application.
- (2) ICRC is not required to determine an application until the applicant complies with the requirement.

36 Public consultation

- (1) Before ICRC makes a defined licence decision under this division, it may give public notice about the matter to be decided and invite submissions about that matter from interested people.
- (2) The public notice must—
 - (a) be published in a daily newspaper and on ICRC’s web site on the Internet; and
 - (b) state where copies of relevant documents may be inspected; and
 - (c) state—
 - (i) where submissions may be lodged; and
 - (ii) the closing date for submissions, that is at least 28 days after the day the notice is published.
- (3) If ICRC gives public notice under subsection (1) about a defined licence decision, it must not make the decision unless it has—
 - (a) allowed the utility a reasonable opportunity—
 - (i) to examine submissions lodged with ICRC in accordance with the public notice; and
 - (ii) to make representations to ICRC about any matter raised in the submissions; and
 - (b) considered the matters raised in all the submissions and representations properly made to ICRC.

(4) In this section:

defined licence decision means a decision to—

- (a) grant a licence under section 37; or
- (b) vary a licence under section 38; or
- (c) exempt a utility under section 39; or
- (d) agree to the transfer of a licence under section 40.

utility—

- (a) in relation to the grant of a licence—means the applicant for the licence; and
- (b) in relation to the transfer of a licence—includes the intended transferee.

37 Grant

(1) ICRC may, on application, grant a licence to a person to provide a utility service.

Note 1 Under s 52, the ICRC must prepare a notice of a grant of a licence. The notice is a notifiable instrument.

Note 2 If ICRC refuses to grant a licence, or grants a licence subject to a condition imposed by it, it must give a reviewable decision notice to the applicant for the licence (see s 43A).

(2) ICRC must grant the licence if satisfied that—

- (a) the applicant has the capacity, as determined in accordance with the relevant technical and prudential criteria adopted by ICRC under section 26—
 - (i) to comply with the licence conditions; and
 - (ii) to operate a viable business as licensee; and
- (b) the applicant satisfies any other requirement that is relevant to ICRC's objects under this Act.

- (3) A licence to provide utility services to franchise customers, whether exclusively or otherwise, may be granted by ICRC only with the written approval of the Minister.

Note Under s 52, the ICRC must prepare a notice of a refusal of a licence. The notice is a notifiable instrument.

38 Variation

- (1) ICRC may, in writing, vary a utility's licence—

- (a) on application by the utility; or
- (b) on its own initiative, by written notice given to the utility.

Note 1 Under s 52, the ICRC must prepare a notice of a variation of a licence. The notice is a notifiable instrument.

Note 2 If ICRC refuses to vary a licence, it must give a reviewable decision notice to the licensee (see s 43A).

- (2) ICRC may vary a licence on its own initiative only if ICRC—

- (a) has given the utility reasonable notice of the proposed variation and its reasons for the variation; and
- (b) has allowed the utility a reasonable opportunity to make representations to ICRC about the proposal; and
- (c) has taken account of any representation; and
- (d) is satisfied that the variation is appropriate.

- (3) However, ICRC may vary a licence on its own initiative without complying with subsection (2) (a), (b) and (c) if satisfied that—

- (a) the variation is necessary or convenient—
 - (i) to give effect to a direction by the Minister under section 19; or
 - (ii) following a review of the licence under section 46; or

- (iii) because of an amendment of an Act or a subordinate law;
or
- (b) the variation—
 - (i) is unlikely to adversely affect anyone; and
 - (ii) would not materially alter the licence.
- (4) A variation takes effect—
 - (a) on the day ICRC gives written notice of the variation to the utility; or
 - (b) if the notice specifies a later date of effect—on that day.
- (5) A utility whose licence is varied on application by the utility must pay the determined fee (if any) to ICRC.

39 Exemption from licence condition

- (1) ICRC may, on application and by notice given to a utility, exempt the utility from compliance with a condition of its licence in relation to a stated activity or in stated circumstances.

Note Under s 52, the ICRC must prepare a notice of an exemption from a condition of a licence. The notice is a notifiable instrument.

- (2) An exemption may be given in relation to a condition, whether imposed by this Act or by ICRC.
- (3) An exemption—
 - (a) must state the period for which it is given; and
 - (b) is subject to any further condition stated in the instrument of exemption.
- (4) This section does not limit ICRC's other powers under this Act in relation to the licence.

- (5) An exemption notice is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

40 Transfer

- (1) A licence is transferable only with ICRC's written agreement.

Note 1 Under s 52, the ICRC must prepare a notice of a transfer of a licence. The notice is a notifiable instrument.

Note 2 If ICRC refuses to agree to the transfer of a licence, it must give a reviewable decision notice to the licensee (see s 43A).

- (2) ICRC may, on application, agree to a transfer of a licence only if satisfied that the intended licensee satisfies the requirements mentioned in section 37 (2) that apply at the time of the transfer.

- (3) A transfer takes effect—

- (a) on the day ICRC gives written notice of its agreement to the licensee; or
- (b) if the notice provides for a later date of effect—on that day.

Note Under s 52, the ICRC must prepare a notice of a refusal to agree to transfer a licence. The notice is a notifiable instrument.

41 Surrender

- (1) A utility may surrender its licence by giving written notice of surrender to ICRC.

Note Under s 52, the ICRC must prepare a notice of a surrender of a licence. The notice is a notifiable instrument.

- (2) The surrender takes effect—

- (a) 90 days after the day the written notice is given to ICRC; or
- (b) if ICRC accepts an earlier surrender—on the day ICRC gives written notice of the acceptance to the utility.

42 Revocation

- (1) Before ICRC revokes a licence, it must—
 - (a) in writing, give the utility reasonable notice of the proposed revocation and its reasons for the revocation; and
 - (b) allow the utility a reasonable opportunity to make representations to ICRC; and
 - (c) take account of any representation; and
 - (d) comply with any other requirements about revocation set out in the licence.
- (2) ICRC may, in writing, revoke a licence—
 - (a) if—
 - (i) in the past 5 years, the licensee has been convicted of 2 or more offences against this Act (other than a daily offence); and
 - (ii) the offences involve a contravention of 1 or more licence conditions; and
 - (iii) ICRC is satisfied that each contravention is material to the licensee's continuing operations, having regard to the nature and scope of the activities to which the licence relates; or
 - (b) if an annual licence fee, or any instalment, remains unpaid more than for 28 days after it is due for payment in accordance with the notice of the relevant determination under section 45.

Note Under s 52, the ICRC must prepare a notice of a revocation of a licence. The notice is a notifiable instrument.
- (3) A revocation takes effect—
 - (a) on the day ICRC gives a reviewable decision notice about the revocation to the licensee; or

- (b) if the notice provides for a later date of effect—on that day.

Division 3.3A Notification and review of ICRC decisions

43 Meaning of *reviewable decision*—div 3.3A

In this division:

reviewable decision means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

43A Reviewable decision notices

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

Note 1 The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see [ACT Civil and Administrative Tribunal Act 2008](#), s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

43B Applications for review

The following may apply to the ACAT for review of a reviewable decision:

- (a) an entity mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

Note If a form is approved under the [ACT Civil and Administrative Tribunal Act 2008](#) for the application, the form must be used.

Division 3.4 Annual licence fee

44 Liability

- (1) A person to whom a licence is granted must pay the annual licence fee to ICRC for each financial year, or part of a financial year, in which the licence is in force.
- (2) The fee is payable in accordance with the notice of the relevant determination under section 45.

45 Determination of fee

- (1) ICRC may determine the annual licence fee payable by each utility.

Note Under s 52, the ICRC must prepare a notice of a determination of annual licence fees. The notice is a notifiable instrument.
- (2) The annual licence fee for a particular utility is the amount considered by ICRC to be a reasonable contribution towards the costs incurred, or expected to be incurred—
 - (a) by the following in the exercise of functions, in the ACT or elsewhere, in relation to utility services:
 - (i) ICRC;
 - (ii) the director-general under part 5 (Technical regulation) on behalf of the Territory; and
 - (b) by the ACAT in hearing and deciding matters to which a utility is a party.
- (3) The matters that ICRC must have regard to when working out the costs mentioned in subsection (2) include, for example—
 - (a) the extent of those costs in relation to each utility; and
 - (b) the annual licence fees payable by all utilities; and

- (c) the relative scope and nature of the services provided by all utilities.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (4) A determination must be in writing stating the following matters:
- (a) ICRC's findings on the matters mentioned in subsections (2) and (3) in relation to the relevant utility;
 - (b) the amount of the fee and the way it is worked out;
 - (c) ICRC's reasons for the amount of the fee and any instalment;
 - (d) how the fee is to be paid (for example, as a lump sum, or by instalments).
- (5) ICRC must give to a utility—
- (a) a copy of the determination of each annual licence fee payable by the utility; and
 - (b) written notice stating when the fee, or any instalment, is due for payment.
- (6) The day on which an annual licence fee, or any instalment, is due for payment must be at least 28 days after the day the notice is given to the relevant utility.
- (7) In this section:
- costs* does not include—
- (a) costs payable by a utility under the [ICRC Act](#); and
 - (b) any fees, charges, costs or other amounts prescribed under the regulations for this definition.

Example for par (a)

costs of an investigation on an industry reference into a regulated industry under the [ICRC Act](#), s 19

Division 3.5 Review and enforcement

46 Review of licence conditions

- (1) ICRC may review a licence at any time to determine whether the licence conditions are appropriate for achieving ICRC's objects under this Act.
- (2) ICRC must publish notice of a proposed review in a daily newspaper.
- (3) The notice must state the following matters:
 - (a) ICRC's objects under this Act;
 - (b) the purpose of the review;
 - (c) the identity of the utility;
 - (d) the utility services to which the licence relates;
 - (e) where a copy of the licence may be inspected;
 - (f) where submissions in relation to the review should be lodged;
 - (g) the closing date for submissions, that is at least 28 days after the day on which the notice is published.
- (4) For a review, ICRC must ensure that the utility has a reasonable opportunity—
 - (a) to examine submissions lodged with ICRC in accordance with the newspaper notice; and
 - (b) to make representations to ICRC about any matter raised in the submissions.
- (5) ICRC must not finish a review unless it has—
 - (a) given the utility and each person who made a submission in accordance with the newspaper notice a written statement of its expected findings and supporting reasons and the action (if any) that ICRC proposes to take because of the review; and

- (b) allowed the utility and each such person a reasonable opportunity to make further representations to ICRC; and
 - (c) considered the matters raised in all the submissions and representations duly made to ICRC.
- (6) When ICRC finishes a review, it must—
- (a) give the utility a written statement of its findings and supporting reasons and the action (if any) taken by ICRC because of the review; and
 - (b) publish notice of the findings in a daily newspaper, stating the place where a record of the statement is available for public inspection.

47 Contravention of licence condition

- (1) A utility must not, without reasonable excuse, contravene a condition of its licence.

Maximum penalty: 3 000 penalty units.

- (2) A utility that, without reasonable excuse, contravenes a condition of its licence commits a separate offence for each day (after the first day) during any part of which the contravention continues without reasonable excuse.
- (3) An offence against subsection (2) is punishable, on conviction, by a fine not exceeding 600 penalty units.

48 Directions about licence condition

- (1) This section applies if ICRC is satisfied that a utility has contravened, or is likely to contravene, a condition of its licence.
- (2) ICRC may give a direction under this section only if it has taken reasonable steps to consult the utility concerned about the giving of the direction.

- (3) ICRC may give a written direction to the utility to take action stated in the direction to ensure compliance with the condition, including action—
- (a) to rectify the contravention; or
 - (b) to avoid the likely contravention.

49 Directions about accounts and records

- (1) If ICRC is satisfied that it is necessary or convenient to do so in relation to the exercise of its functions under the [ICRC Act](#), part 3, 4, 4A or 4B, ICRC may give a written direction to a utility about the keeping of accounts and records in relation to the utility's functions under this Act.
- (2) A direction may require the utility, for example, to do all or any of the following:
- (a) to set up and maintain separate accounts for a stated activity;
 - (b) to set up and maintain a consolidated set of accounts for a stated activity;
 - (c) to apportion costs shared between different activities in a stated way;
 - (d) to deal with information about its functions under this Act in a stated way;
 - (e) to keep records of a stated class;
 - (f) to maintain accounts or records in a stated way.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

50 Contravention of direction

- (1) A utility must not, without reasonable excuse, contravene a direction under section 48 or 49.

Maximum penalty: 2 000 penalty units.

- (2) A utility that, without reasonable excuse, contravenes a direction under section 48 or 49 commits a separate offence for each day (after the first day) during any part of which the contravention continues without reasonable excuse.
- (3) An offence against subsection (2) is punishable, on conviction, by a fine not exceeding 200 penalty units.

Division 3.6 Miscellaneous

51 Protection of personal information

- (1) In this section:

Information Privacy Principles means the Information Privacy Principles under the *Privacy Act 1988* (Cwlth, s 6), other than Principle 5, clause 4 (b).

- (2) This section applies to personal information gained by a utility in relation to the provision of a utility service.
- (3) A utility must deal with personal information in accordance with the Information Privacy Principles as if it were a prescribed authority, within the meaning of the *Freedom of Information Act 1989*, to which the *Privacy Act 1988* (Cwlth) applies.

Note An Act of the Territory generally cannot apply the Privacy Act (Cwlth) to utilities. However, this section would oblige utilities to observe the Information Privacy Principles under the Privacy Act as if the Act applied to them. The arrangement does not allow complaints to be made to the privacy commissioner about utilities, nor for the application of remedies under the Privacy Act.

52 Public notice of licence decisions

- (1) ICRC must prepare a notice of each of the following matters as soon as possible after it happens:
 - (a) the grant of a utility licence under section 37 (Grant);
 - (b) the refusal of a utility licence under section 37 (Grant);
 - (c) the variation of a utility licence under section 38 (Variation);
 - (d) an exemption from compliance with a utility licence condition under section 39 (Exemption from licence condition);
 - (e) ICRC's agreement to the transfer of a utility licence under section 40 (Transfer);
 - (f) ICRC's refusal to agree to the transfer of a utility licence under section 40 (Transfer);
 - (g) the surrender of a utility licence under section 41 (Surrender);
 - (h) the revocation of a utility licence under section 42 (Revocation);
 - (i) the determination of an annual licence fee for a utility under section 45 (Determination of fee).
- (2) The notice must include a statement about the rights available under section 53 in relation to documents about the matter.
- (3) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

53 Public access to licences etc

- (1) ICRC must make copies of each of the documents mentioned in subsection (2) available for inspection by members of the public—
 - (a) during ordinary office hours at the office of ICRC; and
 - (b) at any other place determined by ICRC; and
 - (c) on ICRC's web site on the Internet.
- (2) Subsection (1) applies to each of the following documents:
 - (a) each utility licence;
 - (b) a record of each of the following decisions by ICRC:
 - (i) to grant a utility licence;
 - (ii) to refuse to grant a utility licence;
 - (iii) to vary a utility licence;
 - (iv) the determination of an annual licence fee;
 - (v) to grant an exemption from compliance with a licence condition;
 - (vi) to agree to the transfer of a utility licence;
 - (vii) to refuse to agree to the transfer of a utility licence;
 - (viii) to revoke a utility licence;
 - (c) ICRC's findings on a review under section 46, and its supporting reasons;
 - (d) the notice of the surrender of a licence.
- (3) A person may—
 - (a) without charge, inspect a document made available in accordance with subsection (1); and

(b) make a copy of all or any part of the document, during ordinary office hours, at ICRC's office.

Note A fee may be determined under s 254 for par (b).

- (4) If a person requests that a copy be made available in electronic form, ICRC may provide the relevant information—
- (a) on a data storage device; or
 - (b) by electronic transmission.
- (5) The [ICRC Act](#), section 46 does not apply to a document mentioned in subsection (2).

54 Annual reports—technical and environmental matters

- (1) As soon as practicable after ICRC receives an annual report by a utility in accordance with the licence condition mentioned in section 25 (2) (d), it must—
- (a) give a copy of the technical section of the report to the director-general under part 5 (Technical regulation); and
 - (b) give a copy of the environmental section of the report to the environment protection authority.
- (2) For this section—
- (a) the technical section of the report is the part concerning the utility's compliance with the requirements under this Act in relation to technical codes; and
 - (b) the environmental section of the report is the part concerning the utility's compliance with the requirements under this Act in relation to the protection of the environment.
- (3) Without limiting the requirements mentioned in section 25 (2) (d), ICRC may, in writing, require a utility to prepare annual reports with separate technical and environmental sections.

Part 3A Energy industry levy

Note 1 This part is a tax law under the *Taxation Administration Act 1999*. As a tax law, this part is subject to provisions of the *Taxation Administration Act 1999* about the administration and enforcement of tax laws generally.

Note 2 This part applies to NERL retailers (see s 75B).

54A Definitions—pt 3A

In this part:

administrator—see section 54N.

determined means determined by the administrator under this part.

energy industry sector—see section 54D (1).

energy utility—see section 54D (2).

energy utility service—see section 54D (3).

fixed net regulatory cost—see section 54G (3).

levy means the levy under section 54C.

levy year—see section 54C (1).

local regulatory cost—see section 54F (1).

national regulatory cost—see section 54E (2).

national regulatory obligations—see section 54E (1).

net regulatory cost—see section 54G (2).

regulatory cost—see section 54G (1).

year means financial year.

54B Purpose—pt 3A

The purpose of this part is to impose a levy on energy utilities to recover the amount of the Territory's national regulatory costs, and local regulatory costs, in relation to the energy industry sectors.

54C Energy industry levy—imposition

- (1) If an energy utility provides an energy utility service in an energy industry sector at any time during a year (the *levy year*), the utility is liable to pay a levy in relation to the net regulatory cost for that year.
- (2) The levy for the levy year is worked out as follows:

$$\frac{K}{NC} + \frac{(L - K) \times E}{\Sigma E} + A$$

- (3) If an energy utility does not provide an energy utility service in an energy industry sector in the levy year, but provided an energy utility service in the sector in the previous year—
 - (a) L is taken to be zero in relation to the utility for the levy year; and
 - (b) K is taken to be zero in relation to the utility for the levy year.
- (4) If an energy utility provides an energy utility service in an energy industry sector in the levy year, but did not provide an energy utility service in the sector in the previous year—
 - (a) L' is taken to be zero in relation to the utility for the previous year; and
 - (b) K' is taken to be zero in relation to the utility for the previous year.

(5) In this section:

A, for the levy year, means an adjustment for the previous year, worked out as follows:

$$\frac{K'}{NC'} + \frac{(L' - K') \times E}{\Sigma E} - T$$

E, for the levy year, means—

- (a) for an electricity distributor—the total number of megawatt hours of electricity distributed by the distributor in the ACT in the previous year; and
- (b) for a NERL retailer that supplies electricity—the total number of megawatt hours of electricity sold by the retailer in the ACT in the previous year; and
- (c) for a gas distributor—the total number of megajoules of gas distributed by the distributor in the ACT in the previous year; and
- (d) for a NERL retailer that supplies gas—the total number of megajoules of gas sold by the retailer in the ACT in the previous year.

K, for an energy industry sector for the levy year, means the determined estimate of fixed net regulatory cost for the sector for the year.

K', for an energy industry sector for the levy year, means the determined fixed net regulatory cost for the sector for the previous year.

L, for an energy industry sector for the levy year, means the determined estimate of net regulatory cost for the sector for the year.

L', for an energy industry sector for the levy year, means the determined net regulatory cost for the sector for the previous year.

NC, for an energy industry sector for the levy year, means the determined number of energy utilities that provided energy utility services in the sector at any time before 15 September for the year.

NC', for an energy industry sector for the levy year, means the determined number of energy utilities that provided energy utility services in the sector at any time during the previous year.

T, for the levy year, means the amount of any levy paid by the utility in relation to the provision of energy utility services in the energy industry sector during the previous year.

ΣE, for an energy industry sector for the levy year, means the total number of megawatt hours of electricity or megajoules of gas distributed or sold in the ACT by all energy utilities in the sector in the previous year.

54D Energy industry sectors etc

- (1) For this part, each of the following is an *energy industry sector*:
 - (a) the electricity distribution sector;
 - (b) the electricity supply sector;
 - (c) the gas distribution sector;
 - (d) the gas supply sector;
 - (e) an energy industry sector prescribed by regulation.
- (2) For this part, an *energy utility* is a utility that provides an energy utility service.
- (3) For this part, an *energy utility service* is any of the following:
 - (a) electricity distribution;
 - (b) electricity supply;
 - (c) gas distribution;
 - (d) gas supply.

- (4) In this section:

electricity distribution means the distribution of electricity through an electricity network.

electricity supply means the supply of electricity from an electricity network to premises for consumption.

gas distribution means the distribution of gas through a gas distribution network.

gas supply means the supply of gas from a gas distribution network to premises for consumption.

54E National regulatory obligations and costs

- (1) For this part, the *national regulatory obligations* are the Territory's obligations under the AEMA in relation to—
- (a) cost-sharing arrangements for funding AEMC in relation to the exercise of its functions; and
 - (b) the Ministerial Council on Energy's responsibilities under the AEMA.
- (2) For this part, the *national regulatory cost* for a year is the amount determined under this section to be the cost to the Territory of meeting its national regulatory obligations for the year.
- (3) The administrator must, before 1 October in the levy year, in accordance with this section, determine—
- (a) the estimated national regulatory cost to be applied to each energy industry sector for each levy year; and
 - (b) the national regulatory cost to be applied to each energy industry sector for the year before each levy year.

- (4) In determining the estimated national regulatory cost to be applied to an energy industry sector for a levy year, the administrator must—
- (a) consider the following:
 - (i) the AEMC’s budget, or draft budget, for its functions for the year;
 - (ii) the MCE’s budget, or draft budget, for its functions under the AEMA for the year;
 - (iii) the amount, if any, allocated for AEMC and MCE by the Territory for the year;
 - (iv) the annual costs incurred by AEMC and MCE in previous years in relation to the ACT;
 - (v) the annual costs incurred by the Territory in previous years for activities undertaken by AEMC and MCE; and
 - (b) apportion the estimated national regulatory cost between energy industry sectors having regard to the costs attributable to each sector.
- (5) In determining the national regulatory cost to be applied to an energy industry sector for the year before the levy year, the administrator must—
- (a) consider the amount payable by the Territory for its national regulatory obligations for the previous year; and
 - (b) apportion the national regulatory cost between energy industry sectors having regard to the costs attributable to each sector.
- (6) A determination under this section is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

(7) In this section:

AEMA means the Australian Energy Market Agreement 2004, as amended in 2006, between the Commonwealth, State and Territory Governments.

AEMC means the Australian Energy Market Commission under the [Australian Energy Market Commission Establishment Act 2005](#) (SA).

MCE means the Ministerial Council on Energy and working groups established under the council.

54F Local regulatory costs

- (1) For this part, the *local regulatory cost* for a year is the amount determined by the administrator to be the cost to the Territory of—
 - (a) providing regulatory activities in relation to safety, technical operations, consumer service and environmental behaviour for energy utility services; and
 - (b) the administration of the levy.
- (2) The administrator must, before 1 October in the levy year, in accordance with this section, determine the amount of the local regulatory cost to be applied to each energy industry sector for each levy year and the previous year.
- (3) In determining the estimated local regulatory cost for an energy industry sector for a levy year, the administrator must—
 - (a) consider the following:
 - (i) the budget, or draft budget, for local regulatory activities for the year;
 - (ii) the costs incurred in previous years for local regulatory activities; and

- (b) apportion the estimated local regulatory cost between energy industry sectors having regard to the costs attributable to each sector.
- (4) In determining the local regulatory cost for an energy industry sector for a year before a levy year, the administrator must apportion the local regulatory cost between energy industry sectors having regard to the costs attributable to each sector.
- (5) A determination under this section is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

54G Annual regulatory costs etc

- (1) For this part, the *regulatory cost* for an energy industry sector for a year is the sum of the amounts determined by the administrator to be—
 - (a) the *national regulatory cost* to be applied to the sector for the year; and
 - (b) the *local regulatory cost* to be applied to the sector for the year.
- (2) For this part, the *net regulatory cost* for an energy industry sector for a year is the regulatory cost for the sector for the year less the total amount of annual licence fees determined under section 45 (Determination of fee) for all energy utilities in the sector for the year.
- (3) For this part, the *fixed net regulatory cost* for an energy industry sector for a year is the net regulatory cost incurred for an energy utility that is unrelated to the utility's market share.

54H Further energy sector determinations

- (1) For this part, the administrator must, before 1 October in the levy year, determine the following:
 - (a) for the levy year—
 - (i) the number of energy utilities that provided an energy utility service in each energy utility sector at any time before 15 September in the year; and
 - (ii) for each energy industry sector, the estimated fixed net regulatory cost for the sector for the year;
 - (b) for the year before the levy year—
 - (i) the number of energy utilities that provided an energy utility service in each energy industry sector at any time during the year; and
 - (ii) having regard to statements lodged under section 54I, the total number of megawatt hours of electricity or megajoules of gas distributed or sold in the ACT by all energy utilities in each energy industry sector in the year; and
 - (iii) for each energy industry sector, the fixed net regulatory cost for the sector for the year.
- (2) A determination under this section is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

54I Production of distribution and sales information

- (1) An energy utility must lodge a statement for a levy year if the utility provided an energy utility service in the ACT at any time during the previous year.
- (2) The statement for a year must—
 - (a) be in writing; and
 - (b) be lodged with the administrator not later than 15 September in the year; and
 - (c) state—
 - (i) for an electricity distributor—the total number of megawatt hours of electricity distributed by the distributor in the ACT in the previous year; and
 - (ii) for a NERL retailer that supplies electricity—the total number of megawatt hours of electricity sold by the retailer in the ACT in the previous year; and
 - (iii) for a gas distributor—the total number of megajoules of gas distributed by the distributor in the ACT in the previous year; and
 - (iv) for a NERL retailer that supplies gas—the total number of megajoules of gas sold by the retailer in the ACT in the previous year; and
 - (v) the way the energy utility calculated the number of megawatt hours or megajoules mentioned in subparagraphs (i) to (iv).

54J Production of relevant information etc

- (1) The administrator may, by written notice given to an energy utility, require the utility to give the administrator relevant information or documents that the administrator reasonably requires for this part.

Note The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

- (2) The notice must state—
- (a) the information or document required by the administrator; and
 - (b) where or how the information or document is to be given to the administrator; and
 - (c) when the information or document must be given to the administrator.
- (3) An energy utility commits an offence if the utility contravenes a requirement of a notice given to the utility under subsection (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

54K Registration of energy utilities

The commissioner must register an energy utility if the utility—

- (a) provides an energy utility service in the ACT; and
- (b) has applied to the commissioner for registration as an energy utility.

54L Offence—failure to register

- (1) A person commits an offence if—
- (a) the person becomes an energy utility; and
 - (b) the person does not apply to the commissioner to be registered as an energy utility within 90 days after the day the person becomes an energy utility.

Maximum penalty: 50 penalty units.

- (2) Strict liability applies to subsection (1) (a).

54M Returns under Taxation Administration Act

- (1) An energy utility must lodge a return for a levy year if the utility provided an energy utility service in the ACT at any time—
- (a) before 1 October in the year; or
 - (b) during the previous year.
- (2) The return for a year must—
- (a) be in writing; and
 - (b) be lodged with the commissioner for revenue not later than the return deadline; and
 - (c) state—
 - (i) for an electricity distributor—the total number of megawatt hours of electricity distributed by the distributor in the ACT in the previous year; and
 - (ii) for a NERL retailer that supplies electricity—the total number of megawatt hours of electricity sold by the retailer in the ACT in the previous year; and
 - (iii) for a gas distributor—the total number of megajoules of gas distributed by the distributor in the ACT in the previous year; and

- (iv) for a NERL retailer that supplies gas—the total number of megajoules of gas sold by the retailer in the ACT in the previous year; and
- (v) the way the energy utility calculated the number of megawatt hours or megajoules mentioned in subparagraphs (i) to (iv).

Note If a form is approved under the *Taxation Administration Act 1999*, s 139C (Approved forms) for this provision, the form must be used.

- (3) In this section:

return deadline, for a return for a year, means—

- (a) 31 October in the year; or
- (b) if the deadline is extended under the *Taxation Administration Act 1999*, section 40—the date by which the return must be lodged under that section.

54N Levy administrator

The Minister may appoint a public servant to be the ***administrator*** for this part.

Note 1 For the making of appointments (including acting appointments), see the *Legislation Act*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act*, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Note 3 A person's appointment also ends if the person resigns (see *Legislation Act*, s 210).

54O Previously-licensed NERL retailer

- (1) This section applies if—

- (a) an entity that supplies electricity or gas was licensed under this Act immediately before 1 July 2012; and

- (b) the entity (however described) is a NERL retailer on 1 July 2012.
- (2) For the levy year 1 July 2012 to 30 June 2013, the NERL retailer is taken to have provided an energy utility service in the year 1 July 2011 to 30 June 2012.
- (3) In this section:
- supply*—
- (a) electricity means supply electricity from an electricity network to premises for consumption; or
- (b) gas means supply gas from a gas distribution network to premises for consumption.
- (4) This section expires on 1 July 2013.

Part 4 Industry codes

Note This part applies to NERL retailers (see s 75B).

55 Contents

- (1) An industry code may set out practices, standards and other matters about the provision of a utility service.
- (2) An industry code may deal, for example, with all or any of the following matters:
 - (a) network boundaries;
 - (b) connections to a network;
 - (c) a GSL scheme within the meaning of the *National Energy Retail Law (ACT)*;
 - (d) other utility service standards;
 - (e) the protection of customers and consumers;
 - (f) the metering of utility services;
 - (g) the provision of utility services generally;
 - (h) the termination or interruption of utility services;
 - (i) disconnections from a network;
 - (j) arrangements between licensed distributors and suppliers concerning the use of a network;
 - (k) the development of a network.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (3) An industry code may deal with a matter by stating requirements to be dealt with by the terms of a standard customer contract for a utility service.

- (4) An industry code may apply, adopt or incorporate (with or without change) an instrument, or a provision of an instrument, as in force from time to time.

Note 1 A statutory instrument may also apply, adopt or incorporate (with or without change) a law or instrument (or a provision of a law or instrument) as in force at a particular time (see [Legislation Act](#), s 47 (1)).

Note 2 If a statutory instrument applies, adopts or incorporates a law or instrument (or a provision of a law or instrument), the law, instrument or provision may be taken to be a notifiable instrument that must be notified under the [Legislation Act](#) (see s 47 (2)-(6)).

56 Application

- (1) For this Act, an industry code applies to a utility (other than a NERL retailer) if it applies to the provision of utility services of a kind that the utility is licensed to provide.
- (2) For this Act, an industry code applies to a NERL retailer if a determination under section 56A provides that it applies to the retailer.
- (3) An industry code may apply to—
- (a) a utility service of a stated class or utility services generally; or
 - (b) a stated utility, a utility of a stated class or utilities generally;
- and may make different provisions for different classes of services or utilities.
- (4) An industry code has no effect to the extent of any inconsistency with this Act, a related law or a technical code.

56A NERL retailers—determination of application of code

- (1) The ICRC may determine that an industry code applies to a NERL retailer if the ICRC is satisfied on reasonable grounds that it is appropriate for the code to apply to the retailer.

Note Power to make a statutory instrument (including a disallowable instrument) includes power to make different provision for different categories (see [Legislation Act](#), s 48).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

57 Draft codes

- (1) ICRC must consider a draft industry code submitted for approval by—
 - (a) a utility; or
 - (b) a person whom ICRC is satisfied represents a utility or 2 or more utilities.
- (2) ICRC may give a written direction to a utility to submit a draft industry code about a stated matter to ICRC for consideration.
- (3) A utility must comply with a direction within the period stated in the direction, being a period that ICRC is satisfied is reasonable in the circumstances.

58 Approved codes

- (1) ICRC may—
 - (a) approve; or
 - (b) refuse to approve;an industry code a draft of which has been submitted in accordance with section 57.

- (2) ICRC may approve an industry code only if—
 - (a) it has consulted the Minister, and the Minister responsible for part 5 (Technical regulation), in relation to the code; and
 - (b) is satisfied that—
 - (i) the code is not inconsistent in material respects with another industry code or a technical code; and
 - (ii) the requirements of section 60 for public consultation have been satisfied; and
 - (iii) the code is appropriate.
- (3) ICRC must give the proponent of a draft industry code submitted in accordance with section 57 written notice of its decision on the draft code.
- (4) If ICRC refuses to approve an industry code, the notice of the decision must set out the reasons for the refusal and may—
 - (a) state any matter that ICRC is satisfied requires further consideration or development; and
 - (b) require the proponent to submit a further draft industry code to ICRC for consideration.
- (5) If subsection (4) (b) applies, the notice must state the period, that ICRC is satisfied is reasonable in the circumstances, within which the further draft industry code is to be submitted.
- (6) ICRC must, as soon as practicable, give a copy of each approved code to each utility to which the code would apply.

59 Determined codes

- (1) ICRC may determine an industry code if it—
 - (a) has consulted the Minister, and the Minister responsible for part 5 (Technical regulation), in relation to the code; and

- (b) is satisfied that—
 - (i) the code is not inconsistent in material respects with another industry code or a technical code; and
 - (ii) it is necessary or convenient to determine the code.
- (2) ICRC may determine an industry code, for example, in the following circumstances:
 - (a) if a utility fails to submit a draft industry code in accordance with a direction under section 57;
 - (b) the proponent of a draft industry code fails to submit a further draft of the code in accordance with a requirement in a notice of refusal under section 58;
 - (c) ICRC is satisfied that a draft industry code submitted for consideration or approval is not appropriate;
 - (d) to give effect to a direction by the Minister under section 19.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (3) ICRC must, as soon as practicable, give a copy of each determined code to each utility to which the code would apply.

60 Public consultation

- (1) Before ICRC approves or determines an industry code, it must—
 - (a) publish a notice in a daily newspaper that—
 - (i) states that the draft code has been prepared; and
 - (ii) states the place or places where copies of the draft code may be inspected or obtained; and
 - (iii) invites interested people to make submissions to ICRC about the draft code within the period stated in the notice; and

- (b) make copies of the draft code available for public inspection in accordance with the notice.
- (2) The period stated in the notice must run for at least 30 days after the publication of the notice.
- (3) ICRC must have due regard to any submission made in accordance with the notice when approving or determining the industry code.

61 Variation

- (1) ICRC may approve, or determine, a variation of an industry code and, for that purpose, the other sections of this part apply to the variation, subject to subsections (2) and (3), in the same way as they apply to a new industry code.
- (2) ICRC may approve a variation of an industry code under section 58 without the public consultation required by section 60 if—
 - (a) apart from the proponent, each utility to which the code applies has given ICRC written notice of its agreement to the variation; or
 - (b) ICRC is satisfied that the variation is necessary or convenient—
 - (i) to give effect to a direction by the Minister under section 19; or
 - (ii) following a review of a licence under section 46; or
 - (iii) because of an amendment of an Act or a subordinate law; or
 - (c) ICRC is satisfied that the variation is unlikely to adversely affect anyone and would not materially alter the code.
- (3) ICRC may determine a variation of an industry code under section 59 on its own initiative, without the public consultation required by section 60, in the circumstances mentioned in subsection (2) (b) or (c).

62 Notification and disallowance of codes etc

Each of the following is a disallowable instrument:

- (a) an industry code approved under section 58 (Approved codes);
- (b) an industry code determined under section 59 (Determined codes);
- (c) the variation of an industry code approved or determined under section 61 (Variation).

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

63 Public access

- (1) ICRC must make copies of each of the documents mentioned in subsection (2) available for public inspection during ordinary office hours, at the office of ICRC and any other place determined by ICRC.
- (2) Subsection (1) applies to each of the following documents:
 - (a) each industry code;
 - (b) a record of each of the following decisions by ICRC:
 - (i) to approve an industry code;
 - (ii) to refuse to approve an industry code, a draft of which has been submitted to ICRC for consideration;
 - (iii) to determine an industry code;
 - (iv) to approve, or determine, a variation of an industry code.
- (3) A person may inspect, or make a copy of, all or part of a document mentioned in subsection (2).

Note A fee may be determined under s 254 for this subsection.

- (4) If a person requests that a copy be made available in electronic form, ICRC may provide the relevant information—

Part 4 Industry codes

Section 63

- (a) on a data storage device; or
 - (b) by electronic transmission.
- (5) The [ICRC Act](#), section 46 does not apply to a document mentioned in subsection (2).

Part 5 **Technical regulation**

Note This part applies to NERL retailers and NERL exempt sellers (see s 75B and s 75C).

Division 5.1 **Technical codes**

64 **Contents**

- (1) A technical code is to consist only of requirements necessary or convenient for the following purposes:
 - (a) protecting the integrity of a network or network facility;
 - (b) protecting the health or safety of people who—
 - (i) operate; or
 - (ii) work on; or
 - (iii) are otherwise reasonably likely to be affected by the operation of;
a network or network facility;
 - (c) ensuring the proper connection of customers' premises to a network for the provision of a utility service;
 - (d) ensuring, directly or indirectly, as a condition of connecting customers' premises to a network, that facilities or equipment on customer's premises—
 - (i) have particular design features; or
 - (ii) meet particular performance requirements;
 - (e) ensuring, directly or indirectly, that a network or network facility—
 - (i) has particular design features; or
 - (ii) meets performance requirements stated in a relevant industry code;

- (f) protecting—
 - (i) public and private property; and
 - (ii) the environment;
 - (g) emergency planning by a utility.
- (2) For the purposes of subsection (1) but without limiting its operation, a technical code may make provision in relation to the accreditation of people for work associated with the connection of premises to a network or varying the capacity of such a connection.

64A NERL retailers and NERL exempt sellers—determination of application of code

- (1) The Minister may determine that a technical code applies to a NERL retailer or NERL exempt seller if the Minister is satisfied on reasonable grounds that it is appropriate for the code to apply to the retailer or seller.

Note Power to make a statutory instrument (including a disallowable instrument) includes power to make different provision for different categories (see [Legislation Act](#), s 48).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

65 Application of industry code provisions

Part 4 (Industry codes) applies to a technical code as if it were an industry code, but with the following changes:

- (a) the approval or determination of a technical code, or any variation of a technical code, is to be done by the Minister;

- (b) the Minister may act as stated in paragraph (a) only if the Minister has—
 - (i) consulted ICRC and each utility to which the technical code applies, or would apply; and
 - (ii) had due regard to any representation by ICRC or the utility about the Minister's action;
- (c) the Minister must make copies of each technical code available for public inspection in accordance with section 63 (Public access).

Division 5.2 Enforcement

66 Functions of director-general

The director-general has the following functions:

- (a) to monitor and enforce compliance with technical codes;
- (b) to provide advice to the Minister and ICRC about technical codes, including advice about compliance by utilities with the codes;
- (c) to report to ICRC, at least annually, about—
 - (i) the operation of this part; and
 - (ii) the costs incurred by the Territory in relation to the operation of this part.

67 Technical inspectors

- (1) The director-general may appoint a person holding the qualifications mentioned in subsection (2) as a technical inspector.

Note 1 For the making of appointments (including acting appointments), see [Legislation Act](#), div 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) The director-general may determine the qualifications to be held by technical inspectors.
- (3) A determination under subsection (2) is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

- (4) A technical inspector must exercise his or her functions under this Act in accordance with the conditions of appointment and any direction given to the inspector by the director-general.

68 Identity cards

- (1) The director-general must give to each technical inspector an identity card that specifies the inspector's name and office, and on which appears a recent photograph of the inspector.
- (2) A person must, within 7 days after ceasing to be a technical inspector, return the identity card to the director-general.

Maximum penalty (subsection (2)): 1 penalty unit.

69 Inspectors—functions

For this Act, a technical inspector may exercise the functions given to the inspector under part 10 (Enforcement).

70 Directions about technical codes

- (1) This section applies if the director-general is satisfied that a utility has contravened, or is likely to contravene, a technical code.

- (2) The director-general may give a direction to the utility to take action stated in the direction to ensure compliance with the code, including action—
 - (a) to rectify the contravention; and
 - (b) to avoid the likely contravention.
- (3) The director-general may give the direction only if the director-general—
 - (a) has given the utility reasonable notice of the proposed direction and the reasons for the direction; and
 - (b) has allowed the utility a reasonable opportunity to make representations to the director-general; and
 - (c) has taken account of any representation; and
 - (d) is satisfied that the direction is appropriate.
- (4) As soon as practicable after a direction is given, the director-general must prepare a statement about the direction and the reasons for it.
- (5) The direction and statement are notifiable instruments.

Note A notifiable instrument must be notified under the [Legislation Act](#).

71 Contravention of direction

- (1) A utility must not, without reasonable excuse, contravene a direction under section 70.

Maximum penalty: 2 000 penalty units.

- (2) A utility that, without reasonable excuse, contravenes a direction under section 70 commits a separate offence for each day (after the first day) during any part of which the contravention continues without reasonable excuse.
- (3) An offence against subsection (2) is punishable, on conviction, by a fine not exceeding 200 penalty units.

72 Obtaining information and documents

- (1) If the director-general is satisfied that a person is capable of providing information or producing a document that the director-general reasonably requires for this part, the director-general may, by written notice given to the person, require the person—
 - (a) to give the information to the director-general in writing signed by the person or, in the case of a body politic or corporate, by an officer of the body; or
 - (b) to produce the document to the director-general.
- (2) The notice must state—
 - (a) the place at which the information or document is to be given or produced to the director-general; and
 - (b) the time at which, or the period within which, the information or document is to be given or produced.
- (3) If a document is produced in accordance with a requirement under subsection (1), the director-general—
 - (a) may—
 - (i) take possession of, and may make a copy of, or take extracts from, the document; and
 - (ii) retain possession of the document for such period as is necessary for the purposes of this part; and
 - (b) must, during that period allow a person who would be entitled to inspect the document, if it was not in the possession of the director-general, to inspect the document at any reasonable time.

73 Contravention of requirement under s 72

A person must not, without reasonable excuse, contravene a requirement under section 72.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Division 5.3 Miscellaneous

74 Self-incrimination etc

(1) A person is not excused from providing information or producing a document when required to do so under section 72 on the ground that the information or document might tend to incriminate the person.

(2) However—

(a) the provision of the information or document; or

(b) any information, document or thing obtained as a direct or indirect consequence of providing the information or document;

is not admissible in evidence against the person in criminal proceedings, other than proceedings for—

(c) an offence against this part; or

(d) any other offence in relation to the falsity of the information or document.

Note 1 A reference to an offence against a Territory law includes a reference to a related ancillary offence, eg attempt (see [Legislation Act](#), s 189).

Note 2 The [Legislation Act](#), s 171 deals with the application of client legal privilege.

Part 5A NERL retailers and NERL exempt sellers

Division 5A.1 Preliminary

75 **Meaning of *NERL retailer***

In this Act:

NERL retailer means a person who holds a retailer authorisation under the *National Energy Retail Law (ACT)*.

75A **Meaning of *NERL exempt seller***

(1) In this Act:

NERL exempt seller means a person who is exempted by the AER under the *National Energy Retail Law (ACT)* from the requirement to hold a retailer authorisation.

(2) In this section:

AER means the Australian Energy Regulator established under the *Competition and Consumer Act 2010* (Cwlth), section 44AE (Establishment of the AER).

75B **Application of Act to NERL retailers**

(1) The relevant parts of this Act apply in relation to a NERL retailer as if—

- (a) a reference to a utility were a reference to a NERL retailer; and
- (b) for the relevant parts of this Act other than part 4 (Industry codes)—a reference to a utility service were a reference to the activity of selling electricity or gas to a person for premises; and
- (c) for part 4—a reference to a utility service were a reference to the activity of selling electricity or gas to a person for

premises, and included the action required by a NERL retailer under the *Electricity Feed-in (Renewable Energy Premium) Act 2008*, section 6 (3) (Feed-in from renewable energy generators to electricity network); and

(d) a reference to a customer were a reference to a customer under the *National Energy Retail Law (ACT)*; and

(e) any other necessary changes were made.

(2) In this section:

relevant parts, of this Act, mean the following:

(a) part 3A (Energy industry levy);

(b) part 4 (Industry codes);

(c) part 5 (Technical regulation);

(d) part 10 (Enforcement);

(e) part 11 (Certain causes of action against customer);

(f) part 12 (Complaints to ACAT about utilities);

(g) part 13 (Community service obligations).

75C Application of Act to NERL exempt sellers

(1) The relevant parts of this Act apply in relation to a NERL exempt seller as if—

(a) a reference to a utility were a reference to a NERL exempt seller; and

(b) a reference to a utility service were a reference to the activity of selling electricity or gas to a person for premises; and

(c) a reference to a customer were a reference to a customer under the *National Energy Retail Law (ACT)*; and

(d) any other necessary changes were made.

(2) In this section:

relevant parts, of this Act, mean the following:

- (a) part 5 (Technical regulation);
- (b) part 10 (Enforcement);
- (c) part 11 (Certain causes of action against customer);
- (d) part 12 (Complaints to ACAT about utilities).

75D Inconsistency between Act and NERL

(1) The *National Energy Retail Law (ACT)* prevails if there is an inconsistency between this Act in its application to a NERL retailer or NERL exempt seller and that Law.

Note 1 A reference to the *National Energy Retail Law (ACT)* includes a reference to the statutory instruments made or in force under that Law, including the *National Energy Retail Regulation (ACT)* and the national energy retail rules (see *National Energy Retail Law (ACT) Act 2012*, s 9 (2) and *Legislation Act*, s 104).

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see *Legislation Act*, s 104).

(2) This Act is taken to be consistent with that Law to the extent that it is capable of operating concurrently with that Law.

Division 5A.2 NERL retailer obligations

Subdivision 5A.2.1 Greenpower

75E Greenpower obligations—general

- (1) A NERL retailer must—
- (a) first offer a greenpower product to a person who proposes to purchase electricity for premises from the retailer; and

- (b) have a greenpower product available for purchase by its customers to whom it sells or supplies electricity.
- (2) Subsection (1) (a) does not apply to a NERL retailer in relation to—
- (a) a person for whom the retailer is acting as designated RoLR in relation to a RoLR event under the *National Energy Retail Law (ACT)*; or
- (b) a person who is a move-in customer or carry-over customer; or
- (c) a transaction with a person if the retailer must obtain the person's explicit informed consent for the transaction under the *National Energy Retail Law (ACT)*, section 38 (Requirement for explicit informed consent for certain transactions).
- (3) If a small customer stops, or proposes to stop, purchasing a greenpower product from a NERL retailer, the retailer must not impose a charge (however described) on the small customer in relation to the cessation.

- (4) In this section:

carry-over customer—see the *National Energy Retail Law (ACT)*, section 2 (1).

customer—see the *National Energy Retail Law (ACT)*, section 5.

designated RoLR—see the *National Energy Retail Law (ACT)*, section 122.

greenpower product—see the *National GreenPower Accreditation Program: Program Rules*, Appendix C (Definition of Terms), made by the National GreenPower Steering Group, as in force from time to time.

Note The *National GreenPower Accreditation Program: Program Rules* are accessible at www.greenpower.gov.au.

move-in customer—see the *National Energy Retail Law (ACT)*, section 2 (1).

RoLR event, in relation to a retailer—see the *National Energy Retail Law (ACT)*, section 122.

small customer—see the *National Energy Retail Law (ACT)*, section 5.

75F Greenpower obligations—information on bills

- (1) If a customer purchases a greenpower product from a NERL retailer, the retailer must include greenpower information on each bill issued by the retailer to the customer.
- (2) However, subsection (1) does not apply if the information is not reasonably available to the retailer.
- (3) In this section:

customer—see the *National Energy Retail Law (ACT)*, section 5 (Meaning of customer and associated terms).

greenpower information, in relation to a customer, means information about the amount of electricity (stated as a percentage or otherwise) used or purchased by the customer that relates to the customer's greenpower product.

greenpower product—see section 75E (4).

Note See the national energy retail rules, r 25 (Contents of bills (SRC and MRC)).

75G Exemption from greenpower obligations

- (1) The Minister may exempt a NERL retailer from having to comply with section 75E (Greenpower obligations—general) or section 75F (Greenpower obligations—information on bills) if the Minister is satisfied on reasonable grounds that the exemption is in the public interest.

Note Power to make a statutory instrument (including a disallowable instrument) includes power to make different provision for different categories (see *Legislation Act*, s 48).

- (2) An exemption is subject to compliance with any condition stated in the exemption.
- (3) An exemption is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

Subdivision 5A.2.2 Enforcement

75H Offence—contravention of code or s 75E

- (1) A NERL retailer commits an offence if the retailer contravenes—
 - (a) an industry code or technical code that applies to the retailer;
or
 - (b) section 75E (Greenpower obligations—general).

Maximum penalty: 3000 penalty units.

- (2) A NERL retailer who contravenes subsection (1) commits a separate offence for each day (after the first day of the contravention) during any part of which the contravention continues.

Maximum penalty (for each day): 600 penalty units.

- (3) This section does not apply to a NERL retailer if the retailer has a reasonable excuse for the contravention.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

75I Directions about code or s 75E

- (1) This section applies if the ICRC is satisfied that a NERL retailer has contravened, or is likely to contravene—
 - (a) an industry code that applies to the retailer; or
 - (b) section 75E (Greenpower obligations—general).

- (2) The ICRC may give a written direction to the retailer to take action stated in the direction to ensure compliance with the code or section 75E, including action—
 - (a) to rectify the contravention; or
 - (b) to avoid the likely contravention.
- (3) The ICRC may give a direction under this section only if it has taken reasonable steps to consult the retailer about the giving of the direction.

75J Offence—contravention of direction

- (1) A NERL retailer commits an offence if the retailer contravenes a direction under section 75I.

Maximum penalty: 2 000 penalty units.

- (2) A NERL retailer who contravenes subsection (1) commits a separate offence for each day (after the first day of the contravention) during any part of which the contravention continues.

Maximum penalty (for each day): 200 penalty units.

- (3) This section does not apply to a NERL retailer if the retailer has a reasonable excuse for the contravention.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

75K Offence—contravention of s 75F

- (1) A NERL retailer commits an offence if the retailer contravenes section 75F (Greenpower obligations—information on bills).

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

Part 6 **Access to utility services**

Division 6.1 **Standard rights**

77 **Exercise of rights**

- (1) A right conferred on a person under this division is—
 - (a) exercisable only in accordance with this division; and
 - (b) subject to—
 - (i) the requirements and limitations applying to the relevant utility under this Act in relation to the provision of utility services; and
 - (ii) the operation of any industry code or technical code that applies to the service.
- (2) A right conferred on a person under this division is subject to any negotiated customer contract between the person and the relevant utility in relation to the service concerned.

78 **Form of application**

An application mentioned in this division may be made to the relevant utility—

- (a) orally or in writing; or
- (b) if acceptable to the utility—by telephone, fax or other electronic means.

79 **Electricity connection service**

- (1) This section applies if a person has applied to an electricity distributor for a connection service for electricity for the person's premises.
- (2) The person may elect to have an accredited person other than the distributor do work in relation to the connection service.

(3) However, this section does not apply until a date determined by the Minister.

(4) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

(5) In this section:

accredited person, in relation to work, means a person accredited under a technical code to do the work.

83 Water connection service

(1) A water distributor must, on application by a person for any of the following utility services, provide the service in accordance with the distributor's standard customer contract:

(a) connect the premises to which the application relates to the distributor's network;

(b) vary the capacity of the connection between the premises to which the application relates and the distributor's network;

(c) if the applicant elects accordingly—allow the connection, or the variation of the capacity of the connection, and the associated work, to be done by another person accredited under the relevant technical code.

(2) For subsection (1) (c), work associated with the connection or variation does not include any augmentation, relocation or other alteration of the distributor's network.

(3) To avoid any doubt, action taken by an accredited person under subsection (1) (c) does not constitute the provision of a utility service.

84 Water supply service

- (1) A water supplier must, on application by a person, and in accordance with the supplier's standard customer contract, supply water to premises owned or occupied by the person.
- (2) This section does not apply to the supply of water to premises for a non-franchise customer.

85 Sewerage connection service

- (1) A sewerage utility must, on application by a person for any of the following utility services, provide the service in accordance with the utility's standard customer contract:
 - (a) connect the premises to which the application relates to the utility's network;
 - (b) vary the capacity of the connection between the premises to which the application relates and the utility's network;
 - (c) if the applicant elects accordingly—allow the connection, or the variation of the capacity of the connection, and the associated work, to be done by another person accredited under the relevant technical code.
- (2) For subsection (1) (c), work associated with the connection or variation does not include any augmentation, relocation or other alteration of the utility's network.
- (3) To avoid any doubt, action taken by an accredited person under subsection (1) (c) does not constitute the provision of a utility service.

86 Sewerage service

A sewerage utility must, on application by a person, and in accordance with the utility's standard customer contract, provide a sewerage service for the premises to which the application relates.

Division 6.2 Standard customer contracts

86A Meaning of *utility service*—div 6.2

In this division:

utility service does not include a utility service in relation to electricity or gas.

87 Terms

- (1) For this Act, the terms of a standard customer contract for the provision of a utility service by a particular utility are the terms of the contract, as approved or determined from time to time under this division, for the provision of the service by the utility.
- (2) A standard customer contract—
 - (a) may apply to 2 or more stated utility services; or
 - (b) may set out different terms for different classes of utility services.

88 Draft contracts

- (1) ICRC must consider a draft standard customer contract submitted by a utility to ICRC for approval.
- (2) ICRC may give a written direction to a utility to submit to ICRC for consideration a draft standard customer contract for the provision of a utility service.
- (3) A utility must comply with a direction within the period stated in the direction that ICRC is satisfied is reasonable in the circumstances.

89 Approval of terms

- (1) ICRC may—
 - (a) approve; or

- (b) refuse to approve;
- the terms of a standard customer contract, a draft of which has been submitted to ICRC in accordance with section 88.
- (2) ICRC may approve the terms of a standard customer contract only if satisfied that, when in force as a standard customer contract—
- (a) the terms would be consistent with—
- (i) the conditions of the utility's licence; and
- (ii) the requirements imposed by or under this Act or a related law, including in particular, the requirements of each industry code and technical code that is applicable; and
- (b) the charges payable under the contract would be consistent with the relevant price direction by ICRC; and
- (c) the terms would be fair and reasonable.
- (3) ICRC must give written notice of a refusal under this section to the utility.
- (4) A notice of refusal must set out the reasons for the refusal and may—
- (a) state any matter that ICRC is satisfied requires further consideration or development; and
- (b) require the utility to submit a further draft standard customer contract to ICRC for consideration.
- (5) If subsection (4) (b) applies, the notice must state the period, that ICRC is satisfied is reasonable in the circumstances, within which the further draft standard customer contract is to be submitted.

90 Determination of terms

- (1) ICRC may determine the terms of a standard customer contract if—
 - (a) a utility fails to submit a draft standard customer contract in accordance with a direction under section 88; or
 - (b) a utility fails to submit a further draft standard customer contract in accordance with a requirement under section 89; or
 - (c) ICRC is satisfied that a further draft standard customer contract submitted in accordance with a requirement under section 89 (4) (b) is not appropriate.
- (2) The determined terms must comply with the requirements of section 89 (2).

91 Notification and application of terms etc

Each of the following is a notifiable instrument:

- (a) the terms of a standard customer contract approved under section 89 (Approval of terms) or determined under section 90 (Determination of terms);
- (b) a variation of a standard customer contract approved or determined under section 93 (Variation of terms).

Note A notifiable instrument must be notified under the [Legislation Act](#).

92 Creation of standard customer contracts

- (1) The terms on which a utility may provide a utility service to a person are—
 - (a) to the extent that the service is provided under a negotiated customer contract—the terms of the contract; or
 - (b) in any other case—the terms of the standard customer contract for the provision of the service by the utility that apply—

- (i) when the person applies to the utility for the service on those terms; or
 - (ii) when the service is provided by the utility to the person in the absence of an application by the person.
- (2) Where subsection (1) (b) applies, the terms of the standard customer contract constitute an enforceable contract between the utility and the person for the provision of the service.
- (3) A standard customer contract—
 - (a) has no effect in relation to anything occurring before it comes into operation; and
 - (b) is subject to any variation under section 93; and
 - (c) is unenforceable by the relevant utility to the extent (if any) to which it does not comply with the requirements set out in section 89 (2) (a) and (b).

93 Variation of terms

- (1) ICRC may approve, or determine, a variation of the terms of a standard customer contract and, for that purpose, the other provisions of this division apply to the variation in the same way as they apply to terms for a new standard customer contract.
- (2) However, ICRC may determine a variation of the terms of a standard customer contract if satisfied that the variation—
 - (a) would not materially alter the terms; or
 - (b) is necessary or convenient because of an amendment of an Act or a subordinate law.
- (3) If the terms of a standard customer contract for a utility service provided by a particular utility are varied under this part, each standard customer contract for the provision of the service by the utility is varied accordingly.

94 Water supply and sewerage services—owner’s liability for payment

- (1) The owner of land where water is supplied under a standard customer contract is liable for an amount payable by the customer under the contract.
- (2) The owner of land where sewerage services are provided under a standard customer contract is liable for an amount payable by the customer under the contract.
- (3) Subsections (1) and (2) do not apply to an amount paid by the customer.
- (4) Joint owners of land are jointly and severally liable under subsections (1) and (2).
- (5) The owner’s liability under subsection (1) or (2) includes any undischarged liability of a former owner of the land for an amount payable under that subsection.
- (6) In this section:
owner means—
 - (a) for land held in fee simple—the person in whom the fee simple is vested for the time being; or
 - (b) for land held under a lease—the lessee for the time being; or
 - (c) for land occupied under a tenancy granted by the Territory—the tenant for the time being; or
 - (d) for other land occupied by a person with the consent of the Territory—that person.

Division 6.3 Negotiated customer contracts etc

94A Application—div 6.3

- (1) This division does not apply to a utility service in relation to electricity or gas.
- (2) However, section 95 (2) and (3) applies to a feed-in contract (whether entered into before or after the commencement day) on and after the commencement day as if—
 - (a) a reference to a utility were a reference to a NERL retailer; and
 - (b) subsection (2) (a) were omitted.
- (3) In this section:

commencement day means the commencement of the *National Energy Retail Law (ACT) Act 2012*, section 6 (Application of National Energy Retail Law).

feed-in contract means a contract relating to action required under the *Electricity Feed-in (Renewable Energy Premium) Act 2008*, section 6 (2) or (3).

95 Negotiated customer contracts

- (1) This section applies to a contract, between a utility and a customer, for a utility service on terms other than those of the standard customer contract for the provision of the service by the utility.
- (2) The contract is unenforceable by the utility to the extent (if any) to which it is inconsistent with—
 - (a) the conditions of the utility's licence; or
 - (b) the requirements imposed by or under this Act or a related law, including in particular, the requirements of each industry code or technical code that is applicable.

- (3) Without limiting the operation of subsection (2), the regulations may provide for the core requirements to be ascertained by reference to—
- (a) the standard customer contract that would otherwise apply to the provision of the service by the utility; or
 - (b) an industry code or technical code.

96 Unauthorised arrangements for utility services

An arrangement for the provision of a utility service, other than a standard customer contract or a negotiated customer contract, is unenforceable by the person responsible for the provision of the service unless the person is—

- (a) licensed to provide the service; or
- (b) exempt from the requirement for such a licence.

Division 6.4 Passing on supply costs

97 Approved meters

In this division:

approved meter means a meter that complies with the relevant technical code.

100 Passing on the cost of water

- (1) A person to whom water is supplied under a customer contract must not impose a charge for supplying the water to premises of another person unless each of the following conditions is satisfied:
- (a) for metered premises—
 - (i) the quantity supplied to the premises must be measured separately by an approved meter; and

- (ii) the rate at which the charge is made must not exceed the maximum rate a utility may charge under a standard customer contract if it were to supply that quantity of water directly to those premises of the other person;
- (b) for unmetered premises—the charge must not exceed the maximum charge determined by ICRC for the supply of water to unmetered premises at or near the premises of the other person;
- (c) for all premises—subject to subsection (3), the person makes no other charge in relation to the supply of the water.

Maximum penalty: 50 penalty units.

- (2) Subsection (1) does not apply to—
 - (a) a utility licensed for the distribution or supply of water to the premises of the other person; or
 - (b) a person who is exempt from the requirement for such a licence.
- (3) A person to whom water is supplied under a customer contract must not impose a charge for use of that water (whether the charge is separate or incorporated in another charge, for example for services or facilities) unless each of the following conditions is satisfied:
 - (a) the rate at which the charge is made must not exceed the maximum rate a utility may charge under a standard customer contract for the supply of the water used;
 - (b) the person makes no other charge in relation to the use of the water;
 - (c) if required by the regulations—the usage is metered in accordance with the regulations.

Maximum penalty: 50 penalty units.

Division 6.5 Miscellaneous

101 Capital contribution charges—network development

- (1) A utility may impose a charge (a *capital contribution charge*) payable by customers for the development or augmentation of its network for the following purposes:
 - (a) making utility services available to parcels of land not already connected to a network;
 - (b) varying the capacity of connections to its network.
- (2) A capital contribution charge must be in accordance with the relevant industry code.

Part 7 **Network operations**

Division 7.1 **General**

103 **Definitions for pt 7**

In this part:

installation, of a network facility, includes—

- (a) the construction or extension of the facility on, over or under any land or water; and
- (b) the attachment of the facility to any building or other structure; and
- (c) any activity that is ancillary or incidental to an activity mentioned in paragraph (a) or (b).

network operations means work carried out by a utility, or an authorised person for a utility, under this part in the exercise of its functions under this Act.

Division 7.2 **General powers**

104 **Acquisition of land**

- (1) A utility may compulsorily acquire land (including an interest in land) for the purpose of exercising its functions under this Act.
- (2) The acquisition must be in accordance with the *Lands Acquisition Act 1994*.

105 Installation of network facilities

- (1) For purposes connected with the provision of a utility service, a utility may—
 - (a) enter and occupy land; and
 - (b) undertake any work on the land that is necessary or desirable for installing a network facility.
- (2) Under subsection (1) (b), the utility may, for example, undertake any of the following work:
 - (a) make surveys, take samples and examine the soil;
 - (b) construct, install or place any plant, machinery, equipment or goods;
 - (c) fell or lop trees, or clear and remove vegetation;
 - (d) interrupt the provision of utility services by the utility;
 - (e) make cuttings and excavations;
 - (f) level the land or make roads;
 - (g) erect offices, workshops, sheds, other buildings, fences and other structures;
 - (h) demolish, destroy or remove any network facility installed or used by the utility in relation to the provision of a utility service;
 - (i) put a gate or passageway in a fence or wall (except a wall of a building) that prevents or hinders the work of the utility under this section, or remove such a gate or passageway;
 - (j) temporarily divert or stop traffic on a public road or bridge;

- (k) restore the land, or fences, walls or other structures on the land, affected by the work of the utility and, for that purpose, remove and dispose of soil, vegetation and other material.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (3) This section does not entitle a utility to act under subsection (1) on land that it does not own unless—
- (a) it owns an appropriate interest in the land; or
- (b) the owner of the land agrees to the undertaking.
- (4) If subsection (2) (i) applies, the utility must ensure, so far as practicable that the work is carried out in a way that minimises inconvenience and disruption to the passage of people, vehicles and vessels.
- (5) This section has effect in relation to a tree that is a registered tree under the [Tree Protection Act 2005](#) subject to that Act, part 3 (Protection of trees).

Note Under the [Tree Protection Act 2005](#), pt 3 it is an offence to damage a registered tree (or do prohibited groundwork in the tree's protection zone) unless the damage or groundwork is allowed under that Act. Application may be made to the conservator for approval of tree damaging activity or prohibited groundwork (including in urgent circumstances).

106 Maintenance of network facilities

- (1) A utility may, at any time, maintain a network facility and, for that purpose, do anything necessary or desirable, including, for example—
- (a) entering and occupying land; and

(b) undertaking any work of a kind mentioned in section 105.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

(2) For subsection (1), the maintenance of a network facility includes, for example, the following work:

(a) the alteration, removal, repair or replacement of any part of the facility;

(b) the provisioning of the facility with material or information (whether in electronic form or otherwise);

(c) inspecting or otherwise ensuring the proper functioning of the facility from time to time;

(d) action to which a network protection notice relates.

(3) This section has effect in relation to a tree that is a registered tree under the [Tree Protection Act 2005](#) subject to that Act, part 3 (Protection of trees).

Note Under the [Tree Protection Act 2005](#), pt 3 it is an offence to damage a registered tree (or do prohibited groundwork in the tree's protection zone) unless the damage or groundwork is allowed under that Act. Application may be made to the conservator for approval of tree damaging activity or prohibited groundwork (including in urgent circumstances).

107 National land

Functions of the kind exercisable by a utility under this part are exercisable in relation to national land only by agreement with the Commonwealth.

Division 7.3 Performance of network operations

108 Damage etc to be minimised

In carrying out network operations, a utility must take all reasonable steps to ensure that it causes as little inconvenience, detriment and damage as is practicable.

109 Notice to land-holder

- (1) Before a utility begins network operations in relation to public land or private land, it must give the land-holder written notice of the proposed operations.
- (2) The notice must be given to the land-holder —
 - (a) at least 7 days before the operations begin; or
 - (b) if the relevant industry code requires a minimum period of notice—in accordance with the code.
- (3) The notice must, so far as practicable, state the following matters:
 - (a) the purpose of the operations;
 - (b) the nature of the activities involved;
 - (c) the parts of the land likely to be affected;
 - (d) the period or periods during which the activities are expected to be carried out;
 - (e) contain a statement indicating—
 - (i) the utility's obligation under this part to restore the land; and
 - (ii) the ACAT's power to direct payment by the utility for loss or damage resulting from the operations.
- (4) The land-holder may waive its right to all or part of the minimum period of notice under subsection (2).

- (5) Subsection (1) does not apply if the operations are to be carried out in urgent circumstances in which it is necessary to protect—
- (a) the integrity of a network or network facility; or
 - (b) the health or safety of people; or
 - (c) public or private property; or
 - (d) the environment.

110 Notice about lopping trees etc on private land

- (1) This section applies to network operations to the extent that they involve—
- (a) the felling or lopping of trees on private land; or
 - (b) the trimming of roots of trees or other plants on private land; or
 - (c) the clearing or removal of vegetation on private land.
- (2) Before a utility begins such operations, it must give the land-holder notice of the proposed operations.
- (3) The notice—
- (a) must be given at least 7 days before the operations begin; and
 - (b) must indicate the trees or vegetation affected and the activity proposed; and
 - (c) may require the land-holder to carry out the activity within a stated period; and
 - (d) if paragraph (c) applies—must contain a statement about the effect of subsection (6); and
 - (e) if the operations relate to other network operations for which notice is required under this division—may be given in or with the notice of the other operations.

- (4) The land-holder may waive its right to all or part of the minimum period of notice under subsection (3) (a).
- (5) If subsection (3) (c) applies, the stated period within which the land-holder is required to carry out the activity must run for at least 7 days commencing on the day the notice is given to the land-holder.
- (6) If the land-holder does not carry out the activity in accordance with a requirement in the notice mentioned in subsection (3) (c)—
 - (a) the utility may carry out the activity; and
 - (b) the reasonable expenses thus incurred by the utility are a debt due to the utility by the land-holder.
- (7) Subsection (6) (b) does not apply to a tree or vegetation growing on the land before a network facility was installed on the land.
- (8) In urgent circumstances in which it is necessary to protect—
 - (a) the integrity of a network or a network facility; or
 - (b) the health or safety of people; or
 - (c) public or private property; or
 - (d) the environment;subsections (2) and (3) do not apply and the utility may carry out the operations at its own expense.

110A Network operations affecting heritage significance

- (1) If a notice under section 109 or section 110 is about network operations that may affect a place or object registered, or nominated for provisional registration, under the *Heritage Act 2004*, the utility must also give a copy of the notice to the heritage council at least 7 days before the day operations begin.

- (2) Subsection (1) does not apply if the operations are to be carried out in urgent circumstances in which it is necessary to protect—
- (a) the integrity of a network or network facility; or
 - (b) the health or safety of people; or
 - (c) public or private property; or
 - (d) the environment.

111 Notice to other utilities

- (1) This section applies to network operations by a utility that consist of, or include, an activity that—
- (a) affects; or
 - (b) is reasonably likely to affect;
- a network facility under the care and management of a public utility.
- (2) Before the utility begins such operations, it must give the public utility written notice of the proposed operations.
- (3) The notice must—
- (a) be given to the public utility at least 7 days before the operations begin; and
 - (b) so far as practicable, state the following matters:
 - (i) the purpose of the operations;
 - (ii) the nature of the activities involved;
 - (iii) the network facility affected;
 - (iv) the period or periods during which the activities are expected to be carried out.

- (4) The utility must—
- (a) make reasonable efforts to enter into an agreement with the public utility about the way the activities would be carried out; and
 - (b) comply with any such agreement.
- (5) The public utility may waive its right to notice under subsection (2).
- (6) Subsection (2) does not apply if the operations are to be carried out in urgent circumstances in which it is necessary to protect—
- (a) the integrity of a network or a network facility; or
 - (b) the health or safety of people; or
 - (c) public or private property; or
 - (d) the environment.
- (7) In this section:
- network facility*** includes—
- (a) a telecommunications facility; and
 - (b) a stormwater facility; and
 - (c) a streetlight facility.
- public utility*** includes—
- (a) a utility licensed under this Act; and
 - (b) a carrier or network operator under the *Telecommunications Act 1997* (Cwlth); and
 - (c) the entity responsible for the operation of the stormwater network; and
 - (d) the entity responsible for the operation of the streetlight network.

stormwater facility means any part of the infrastructure of a stormwater network.

streetlight facility means any part of the infrastructure of a streetlight network.

telecommunications facility means a facility under the *Telecommunications Act 1997* (Cwlth).

112 Removal of utility's property and waste

- (1) A utility that undertakes an activity as network operations on land for which it is not the land-holder must, as soon as practicable, remove from the land—
 - (a) all—
 - (i) items of plant, machinery, equipment and other goods; and
 - (ii) offices, workshops, sheds and other buildings; and
 - (iii) roads and tracks;
that the utility constructed, installed or placed on the land and that do not form part of, or are not to be used in the operation of, the network facility to which the activity related; and
 - (b) all spoil, waste and rubbish and cleared vegetation resulting from the activity.
- (2) The obligation in subsection (1) is subject to any agreement to the contrary between the utility and the land-holder.

113 Land to be restored

- (1) A utility that carries out network operations on land for which it is not the land-holder must take all reasonable steps to ensure that the land is restored as soon as practicable to a condition that is similar to its condition before the operations began.

- (2) Subsection (1) does not require the restoration of land to a condition that would involve—
- (a) an interference with—
 - (i) a network or network facility; or
 - (ii) a territory network or territory network facility; or
 - (b) a contravention of a territory law.
- (3) The obligation in subsection (1) is subject to any agreement to the contrary between the utility and the land-holder.

Division 7.4 Authorised people

114 Appointment

- (1) A utility may appoint a person as an authorised person for the utility for this Act.

Note 1 For the making of appointments (including acting appointments), see [Legislation Act](#), div 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) An authorised person must exercise his or her functions under this Act in accordance with the conditions of appointment and any direction given to the person by the utility.

115 Identity cards

- (1) A utility must give each of its authorised people an identity card that specifies the person's name and appointment as an authorised person for the utility, and on which appears a recent photograph of the person.

- (2) A person must, within 7 days after ceasing to be an authorised person, return the identity card to the utility.

Maximum penalty (subsection (2)): 1 penalty unit.

116 Entry to premises—network operations

- (1) Where a utility is entitled under this part to undertake network operations affecting particular premises, an authorised person for the utility may—
- (a) enter the premises, with such people, vehicles and things as are reasonable and necessary for the operations; and
 - (b) carry out the activities necessary for those operations.
- (2) The authorised person may not remain on the premises if, on request by the land-holder or person apparently in charge of the premises, the authorised person does not produce his or her identity card.
- (3) The authorised person may enter and remain on the premises under this section with such assistance as is necessary and reasonable.

117 Entry to premises—inspection of meters etc

- (1) An authorised person for a utility may enter and remain on any premises to which the utility provides, or is to provide, a utility service—
- (a) to read, or check the accuracy of, a meter for recording the provision of the service to the premises; or
 - (b) to check work associated with the connection of premises to the utility's network that is performed by a person accredited under the relevant technical code; or
 - (c) to check the operation of a connection between the premises and the utility's network, or install, repair, remove or replace such a connection; or

- (d) for a purpose related to the connection of the premises to the utility's network, or its withdrawal.
- (2) The authorised person may not remain on the premises if, on request by the land-holder or person apparently in charge of the premises, the authorised person does not produce his or her identity card.
- (3) The authorised person may enter and remain on the premises under this section—
 - (a) at any reasonable time; and
 - (b) with such assistance as is necessary and reasonable.

Division 7.5 Miscellaneous

119 Order to enforce exercise of functions

- (1) If—
 - (a) an authorised person is entitled to exercise a function under this part in relation to premises; and
 - (b) another person obstructs, or proposes to obstruct, the authorised person in the exercise of the function;the Magistrates Court may, on the application of the authorised person, make an order authorising a police officer or other person named in the order to use such assistance and force as are reasonably necessary to enable the function to be exercised.
- (2) A copy of an application under subsection (1) must be given to the obstructor, and the obstructor is entitled to appear and be heard on the hearing of the application.

120 Ownership of network facilities

- (1) The owner or occupier of land to which a network facility is affixed has no proprietary interest in the facility only because it is affixed to the land.
- (2) A network facility of a utility is not to be taken in execution of a judgment against a person other than the utility under any process of a court.

121 Clarifying ownership of certain network facilities

- (1) The purpose of this section is to remove uncertainty about the ownership of network facilities that—
 - (a) are used, or for use, by a utility or a subsidiary of the utility in providing a utility service; and
 - (b) are treated by the Territory and the utility or subsidiary as being owned by the utility or subsidiary; and
 - (c) are affixed to land owned or occupied by a person other than the utility or subsidiary.
- (2) The Minister may declare that this section applies to network facilities.

Note Power given under an Act to make a statutory instrument includes power to make different provision for different categories, eg declarations in relation to different classes of network facilities or that apply by reference to stated exceptions (see [Legislation Act](#), s 48).

- (3) A declaration must include sufficient particulars to identify the facilities to which the declaration applies.
- (4) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

122 Effect of declaration under s 121

- (1) On the day a declaration under section 121 takes effect in relation to a network facility, the facility, by force of this section—
 - (a) is severed from the land and remains severed; and
 - (b) vests in the person in whom the declaration states that the facility vests, without any conveyance, transfer or assignment.
- (2) A facility severed under subsection (1) ceases for all purposes to be a fixture.
- (3) A person in whom a facility is vested has, by force of this section, the following rights in relation to the facility;
 - (a) to have the facility (including any lines, pipes, equipment and any other thing ancillary to any other part of the facility) remain on, under or over the land for the provision of utility services;
 - (b) for that purpose, to use, or continue to use, the facility;
 - (c) to enter and occupy land on, above or under which the facility is located, and to undertake work on that land, for the purpose of maintaining the facility.
- (4) To ensure the proper provision of utility services, the Minister may determine conditions for the exercise of a right given by subsection (3) (c).
- (5) The right is exercisable only in accordance with the determined conditions.
- (6) A determination under subsection (4) is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).
- (7) A declaration under section 121 has no effect to the extent that it would vest a facility in a person if the facility had not been used, or for use, by the person in providing a utility service before the declaration.

Part 8 Protection of networks

Division 8.1 General

123 Meaning of *interference*

In this part:

interference, with a network or network facility, includes an action that—

- (a) interferes with the safe or efficient operation of the network or facility; or
 - (b) inhibits or obstructs lawful access to the network or facility;
- or is likely to have that effect.

Division 8.2 General interference

124 Interference with networks

- (1) A person must not interfere with a network, or a network facility, unless authorised to do so by a responsible utility.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) In a prosecution for an offence against subsection (1), for the purpose of establishing whether an action interfered with a network or a network facility—
 - (a) it is sufficient to prove that, when the action occurred, there were reasonable grounds for believing it was likely to interfere with the network or facility; and
 - (b) the offence may be found to be proved even if, at that time, the defendant did not believe the action would be likely to interfere with the network or facility.

125 Network protection notices

- (1) This section applies if a responsible utility is satisfied that a structure or activity on, under or over land or water interferes, or is reasonably likely to interfere, with the network or a network facility.
- (2) The utility may give the land-holder written notice to take whatever action is necessary to stop the interference with the network or facility, or to remove the likelihood of that interference.
- (3) The notice must—
 - (a) indicate the structure or activity; and
 - (b) require the land-holder to take stated action to stop the interference, or remove the likelihood of the interference, within a stated period; and
 - (c) contain a statement about the effect of subsection (5).
- (4) The stated period must be no less than 14 days starting on the date the notice is given to the land-holder.
- (5) If the land-holder does not comply with the notice—
 - (a) the utility may do whatever is necessary to stop the interference or remove the likelihood of the interference; and
 - (b) the reasonable expenses thus incurred by the utility are a debt due to the utility by the land-holder.
- (6) Subsection (5) (b) does not apply to a structure that was, or an activity that commenced, on, under or over the land before the installation of the network or facility to which the interference relates.
- (7) In urgent circumstances, subsection (2) does not apply and the utility may do whatever is necessary to stop the interference or to remove the likelihood of the interference—
 - (a) without notice to the land-holder; and

(b) at the expense of the utility.

(8) If—

(a) a utility acts under this section in relation to a structure that was, or an activity that commenced, on, under or over the land before the installation of the network or facility to which the interference relates; and

(b) a person suffers loss or damage because of the utility's action; the amount of the loss or damage is a debt due to the person by the utility.

(9) This section has effect in relation to a tree that is a registered tree under the *Tree Protection Act 2005* subject to that Act, part 3 (Protection of trees).

Note Under the *Tree Protection Act 2005*, pt 3 it is an offence to damage a registered tree (or do prohibited groundwork in the tree's protection zone) unless the damage or groundwork is allowed under that Act. Application may be made to the conservator for approval of tree damaging activity or prohibited groundwork (including in urgent circumstances).

(10) In subsection (7):

urgent circumstances means circumstances in which it is necessary to protect—

(a) the integrity of the network or facility; or

(b) the health or safety of people; or

(c) public or private property; or

(d) the environment.

125A Network protection action affecting heritage significance

- (1) If a notice under section 125 is about action that may affect a place or object registered, or nominated for provisional registration, under the *Heritage Act 2004*, the utility must also give a copy of the notice to the heritage council as soon as is practicable.
- (2) If a utility acts in urgent circumstances as mentioned in section 125 (7), it must give the heritage council written notice of the action as soon as is practicable.

Division 8.3 Contamination of water or sewerage networks

126 Contamination of water

- (1) A person must not contaminate water in a water network unless authorised to do so by the responsible utility.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) In a prosecution for an offence against subsection (1), for the purpose of establishing whether an action contaminated water—
 - (a) it is sufficient to prove that, when the action occurred, there were reasonable grounds for believing it was likely to contaminate the water; and
 - (b) the offence may be found to be proved even if, at that time, the defendant did not believe it would be likely to contaminate the water.

127 Prohibited substances—water or sewerage network

- (1) A person must not introduce, or allow to be introduced, into a water network or sewerage network any substance which is likely to interfere with the network or a network facility, or form compounds that would be likely to do so, unless authorised to do so by a responsible utility.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) In a prosecution for an offence against subsection (1), for the purpose of establishing whether a substance was likely to interfere with a network or facility (or to form compounds that would be likely to do so)—
- (a) it is sufficient to prove that, when the action occurred, there were reasonable grounds for believing it was likely to interfere with the network or facility (or form compounds likely to do so); and
 - (b) the offence may be found to be proved even if, at that time, the defendant did not believe the action would be likely to have that effect.

128 Exempt water treatments

- (1) Sections 126 and 127 do not apply to the addition by the responsible utility to a water network of—
- (a) a chemical for the purpose of clarifying, purifying or otherwise treating the water in that network at a concentration that would not be injurious to public health; or
 - (b) fluoride at a concentration not exceeding 1.0mg/L.
- (2) For subsection (1) (b), a concentration that—
- (a) would result in an average concentration of 1.0mg/L during a period of 24 hours; and

- (b) does not exceed 1.2mg/L;
is taken to be a concentration of 1.0mg/L.

Division 8.4 Miscellaneous

129 Unauthorised network connections

- (1) A person, other than the responsible utility, must not connect premises to a network unless accredited under the relevant technical code to do so.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) In this section:

responsible utility includes a NERL retailer.

130 Unauthorised abstraction etc of electricity

- (1) A person must not abstract, divert or use electricity from an electricity network except in accordance with—

(a) the authority of the responsible utility; or

(b) a customer contract.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) In this section:

customer contract includes a customer retail contract or customer connection contract under the *National Energy Retail Law (ACT)*.

responsible utility includes a NERL retailer.

131 Unauthorised abstraction etc of gas

- (1) A person must not abstract, divert or use gas from a gas network except in accordance with—
- (a) the authority of the responsible utility; or
 - (b) a customer contract.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) In this section:

customer contract includes a customer retail contract or customer connection contract under the *National Energy Retail Law (ACT)*.

responsible utility includes a NERL retailer.

132 Unauthorised abstraction etc of water

A person must not abstract, divert or use water from a water network except in accordance with—

- (a) the authority of the responsible utility; or
- (b) a customer contract.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

133 Extended meaning of *network*

- (1) In sections 130, 131 and 132:

network includes related infrastructure between the network boundary and a customer meter.

- (2) In this section:

customer meter, in relation to the supply of electricity, gas or water, means a meter used to measure the supply to a customer's premises.

Part 9 **Controller's power to take over operations**

Division 9.1 **General**

134 **Meaning of *utility*—pt 9**

- (1) In this part:
utility includes a former utility.
- (2) In this section:
former utility does not include a NERL retailer.

135 **Appointment of controller**

- (1) This section applies if the Minister is satisfied—
 - (a) that—
 - (i) a contravention by a utility of a licence condition threatens the provision of the utility's service to customers; and
 - (ii) other remedies are inadequate to ensure compliance with the licence condition; or
 - (b) that, following the expiry or cessation of a licence, the provision of utility services to customers is threatened.

- (2) In either case, the Minister may, after consulting ICRC, appoint a controller for all or part of the operations of the responsible utility.

Note 1 For the making of appointments (including acting appointments), see [Legislation Act](#), div 19.3.

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see [Legislation Act](#), div 19.3.3).

- (3) The controller has the functions stated in the instrument of appointment.

- (4) A controller holds the position on the conditions stated in the instrument of appointment.
- (5) The Minister may revoke an appointment by written notice given to the person.

Note A person's appointment also ends if the person resigns (see [Legislation Act](#), s 210).

136 Controller's functions

- (1) A controller must, so far as practicable, ensure the provision or continued provision of the utility service to which the appointment relates.
- (2) For that purpose, the controller may—
 - (a) take control of the relevant operations of the utility; and
 - (b) take control of the activities of an associate of the utility so far as they relate to the provision of the relevant utility services; and
 - (c) have access to a network facility or other premises of the responsible utility or an associate, so far as is reasonable and necessary; and
 - (d) give a written direction to a person to take stated action.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see [Legislation Act](#), s 196 and dict, pt 1, def *entity*).

137 Utility to cooperate

- (1) The responsible utility must facilitate the taking of action by the controller and, in particular must comply with any direction by the controller.
- (2) A utility is not to be taken to contravene a requirement under this Act or any other Act by complying with a direction of the controller.

138 Reports to Minister

The controller must furnish to the Minister such information relating to the controller's functions as the Minister requires.

139 Ministerial directions

- (1) The Minister may give written directions to the controller in relation to the exercise of the controller's functions, either generally or in relation to a particular matter.
- (2) The controller must give effect to any such direction.

140 Contravention of controller's direction

A person must not, without reasonable excuse, contravene a direction given by the controller in the performance of functions under this part.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

142 Immunity from personal liability

- (1) No personal liability attaches to a person who is, or has been, a controller for any act or omission in good faith in the exercise, or purported exercise, of a function under this Act.
- (2) Subsection (1) does not affect any liability that the Territory would have, but for the operation of subsection (1), in relation to the act or omission.

Division 9.2 Compensation

143 Right to compensation

- (1) Subject to this section, a person who suffers loss because of an act or omission of a controller is entitled to be paid reasonable compensation by the Territory in relation to the loss.

- (2) Compensation is not payable to a person in relation to a loss to the extent—
 - (a) of any amount recovered or recoverable by the person under a policy of insurance; or
 - (b) that the conduct of the person contributed to the loss.
- (3) Compensation is not payable to a person in relation to a loss if the loss would have arisen despite the act or omission of the controller.

144 Claims

A claim for compensation must—

- (a) be in writing; and
- (b) set out particulars of the claimant's loss, the amount of compensation claimed and the grounds for the claim of that amount; and
- (c) be lodged with the director-general.

145 Acceptance or rejection of claim

- (1) Where the Minister is satisfied that a claimant is entitled to compensation under section 143, the Minister must accept the claim by giving written notice of acceptance to the claimant setting out—
 - (a) an offer to the claimant of the amount of compensation to which the Minister considers the claimant is entitled; and
 - (b) an explanation of how that amount was assessed.
- (2) Where the Minister is satisfied that a claimant is not entitled to compensation under section 143, the Minister must reject the claim by giving written notice of rejection to the claimant setting out the reasons for the rejection.

146 Acceptance or rejection of compensation offer

A claimant to whom an offer has been made under section 145 may—

- (a) accept the offer; or
- (b) reject the offer;

by giving written notice to that effect to the director-general.

147 Payment

Where a claimant accepts an offer of an amount of compensation, the Territory must pay the amount to the claimant.

148 Role of court

If the Territory and the person to whom compensation is payable under section 143 do not agree on the amount of compensation, the person may, in a court of competent jurisdiction, recover from the Territory such reasonable compensation as the court determines.

149 Recovery of compensation

If—

- (a) a controller is appointed because of a contravention by a utility of a licence condition; and
- (b) a person suffers loss because of an act or omission of the controller; and
- (c) the controller's act or omission was in good faith in the exercise or purported exercise of a function under this part;

the amount of compensation payable under this part for the loss is a debt due to the Territory by the utility.

Part 9A Shortage of essential services

149A Definitions for pt 9A

essential service means electricity, gas or water.

essential service restriction means a restriction or other regulation prescribed by regulation in relation to the use of an essential service.

149B Restriction of utility service

A regulation may make provision in relation to a shortage, or possible shortage, in the amount of an essential service needed for the community, including provision regulating the use of an essential service by consumers.

149C Powers in relation to premises

- (1) This section applies if an authorised person believes, on reasonable grounds, that an essential service is being used, or has just been used, at premises in contravention of an essential service restriction.
- (2) For this Act, the authorised person may, at any reasonable time—
 - (a) enter and inspect the premises and anything at the premises; and
 - (b) take action prescribed by regulation in relation to a contravention of the essential service restriction.
- (3) However, subsection (2) (a) does not authorise entry into a part of premises that is being used only for residential purposes.
- (4) To remove any doubt, an authorised person may enter premises under subsection (2) (a) without payment of an entry fee or other charge.

149D Production of identity card

An authorised person must not remain on premises entered under this part if, when asked by the occupier, the authorised person does not produce the authorised person's identity card for inspection by the occupier.

Part 10 Enforcement

Note This part applies to NERL retailers and NERL exempt sellers (see s 75B and s 75C).

Division 10.1 General

150 Definitions for pt 10

In this part:

connected—a thing is **connected** with a particular offence if—

- (a) the offence has been committed in relation to it; or
- (b) it will provide evidence of the commission of the offence; or
- (c) it was used, is being used, or is intended to be used, to commit the offence.

occupier, of premises, includes—

- (a) a person believed on reasonable grounds to be an occupier of the premises; and
- (b) a person apparently in charge of the premises.

offence includes an offence that there are reasonable grounds for believing has been, is being, or will be committed.

Division 10.2 ICRC inspectors

152 Appointment

- (1) ICRC may appoint a person as an ICRC inspector for this Act.

Note 1 For the making of appointments (including acting appointments), see [Legislation Act](#), div 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) An ICRC inspector must exercise his or her functions under this Act in accordance with the conditions of appointment and any direction given to the inspector by ICRC.
- (3) A person must not be appointed under subsection (1) unless—
 - (a) the person is an Australian citizen or a permanent resident of Australia; and
 - (b) the director-general has certified in writing that, after appropriate inquiry, the director-general is satisfied that the person is a suitable person to be appointed, having regard in particular to—
 - (i) whether the person has any criminal convictions; and
 - (ii) the person's employment record; and
 - (c) the director-general has certified in writing that the director-general is satisfied that the person—
 - (i) has satisfactorily completed adequate training; and
 - (ii) is competent;

to exercise the functions of an inspector proposed to be given to the person.

153 Identity cards

- (1) ICRC must give each of its inspectors an identity card that specifies the inspector's name and appointment as an ICRC inspector, and on which appears a recent photograph of the person.
- (2) A person must, within 7 days after ceasing to be an ICRC inspector, return the identity card to ICRC.

Maximum penalty (contravention of subsection (2)): 1 penalty unit.

154 Power to enter premises

- (1) An ICRC inspector may, for the purpose of ICRC's functions under this Act—
 - (a) enter any premises at any time with the consent of the occupier; or
 - (b) enter premises occupied by a utility at any time the premises are being used; or
 - (c) at any reasonable time, enter premises to which a utility service is provided (other than a part used for residential purposes); or
 - (d) enter premises in accordance with a warrant under section 157.
- (2) An ICRC inspector may, without the occupier's consent or a warrant, enter the land around premises to ask the occupier for consent to enter the premises.

155 Production of identity card

An ICRC inspector may not remain on premises entered under this division if, on request by the occupier, the inspector does not produce his or her identity card.

156 Consent to entry

- (1) When seeking the consent of an occupier for entering premises under this division, an ICRC inspector must—
 - (a) produce his or her identity card; and
 - (b) tell the occupier—
 - (i) the purpose of the entry; and
 - (ii) that anything found and seized may be used in evidence in court; and
 - (iii) that consent may be refused.

- (2) If the occupier consents, the inspector must ask the occupier to sign a written acknowledgment—
 - (a) that the occupier was told—
 - (i) the purpose of the entry; and
 - (ii) that anything found and seized may be used in evidence in court; and
 - (iii) that consent could be refused; and
 - (b) that the occupier consented to the entry; and
 - (c) the time, and day, when consent was given.
- (3) If the occupier signs an acknowledgment of consent, the inspector must immediately give a copy to the occupier.
- (4) Unless the contrary is proven, a court must presume that an occupier of premises did not consent to an entry to the premises by an ICRC inspector under this division if—
 - (a) the question whether the occupier consented to the entry arises in proceedings in the court; and
 - (b) an acknowledgment under this section is not produced in evidence for the entry or exercise of power; and
 - (c) it is not proved that the occupier consented to the entry.

157 Warrants

- (1) An ICRC inspector may apply to a magistrate for a warrant to enter premises.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

- (4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—
 - (a) there is a particular thing or activity (the evidence) that may provide evidence of an offence against this Act or a related law; and
 - (b) the evidence is, or may be within the next 14 days, at the premises.
- (5) The warrant must state—
 - (a) that an ICRC inspector may, with necessary help and force, enter the premises and exercise the inspector's powers under this division; and
 - (b) the offence for which the warrant is sought; and
 - (c) the evidence that may be seized under the warrant; and
 - (d) the hours when the premises may be entered; and
 - (e) the date, within 14 days after the warrant's issue, the warrant ends.

158 Warrants—application made other than in person

- (1) An ICRC inspector may apply for a warrant by phone, fax, radio or other form of communication if the inspector considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances.
- (2) Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.
- (3) The inspector may apply for the warrant before the application is sworn.

- (4) After issuing the warrant, the magistrate must immediately fax a copy to the inspector if it is reasonably practicable to do so.
- (5) If it is not reasonably practicable to fax a copy to the inspector—
 - (a) the magistrate must—
 - (i) tell the inspector what the terms of the warrant are; and
 - (ii) tell the inspector the date and time the warrant was issued; and
 - (b) the inspector must complete a form of warrant (warrant form) and write on it—
 - (i) the magistrate's name; and
 - (ii) the date and time the magistrate issued the warrant; and
 - (iii) the warrant's terms.
- (6) The facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the other powers stated in the warrant issued by the magistrate.
- (7) The inspector must, at the first reasonable opportunity, send the magistrate—
 - (a) the sworn application; and
 - (b) if the inspector completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.
- (9) Unless the contrary is proven, a court must presume that a power exercised by an ICRC inspector was not authorised by a warrant under this section if—
 - (a) the question arises in a proceeding before the court whether the exercise of power was authorised by a warrant; and

- (b) the warrant is not produced in evidence.

159 Powers on entry to premises

- (1) An ICRC inspector who enters premises under this division may, for the purpose of ICRC's functions under this Act—
 - (a) inspect, measure, photograph or film the premises or anything on the premises; or
 - (b) copy a document on the premises; or
 - (c) test or take samples of or from anything on the premises; or
 - (d) take into the premises any people, equipment or material the inspector reasonably needs for exercising a power under this division; or
 - (e) require the occupier, or a person on the premises to give the inspector reasonable help to exercise a power under this division.
- (2) A person must not, without reasonable excuse, contravene a requirement under subsection (1) (e).

Maximum penalty (subsection (2)): 50 penalty units.

160 Power to seize evidence

- (1) An ICRC inspector who enters premises with a warrant under this division may seize the evidence for which the warrant was issued.
- (2) An ICRC inspector who enters premises under this division with the consent of the occupier may seize a thing on the premises if—
 - (a) the inspector is satisfied the thing is connected with an offence against this Act or a related law; and
 - (b) seizure of the thing is consistent with the purpose of the entry as told to the occupier in seeking the occupier's consent.

- (3) An ICRC inspector may also seize another thing on the premises if the inspector is satisfied—
- (a) the thing is connected with an offence against this Act or a related law; and
 - (b) the seizure is necessary to prevent the thing being—
 - (i) concealed, lost or destroyed; or
 - (ii) used to commit, continue or repeat the offence.
- (4) Having seized a thing, an ICRC inspector may—
- (a) remove the thing from the premises where it was seized (the place of seizure) to another place; or
 - (b) leave the thing at the place of seizure but restrict access to it.
- (5) A person must not, without ICRC's approval, interfere with a thing to which access has been restricted under subsection (4).

Maximum penalty (subsection (5)): 50 penalty units, imprisonment for 6 months or both.

161 Receipt for things seized

- (1) As soon as practicable after a thing is seized by an ICRC inspector under this division, the inspector must give a receipt for it to the person from whom it was seized.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the ICRC inspector must leave the receipt at the place of seizure in a reasonably secure way and in a conspicuous position.

162 Access to things seized

A person who would, but for the seizure, be entitled to a thing seized under this division may—

- (a) inspect it; and

- (b) if it is a document—take extracts from it or make copies of it.

163 Return of things seized

- (1) A thing seized under this division must be returned to its owner, or reasonable compensation must be paid to the owner by ICRC for the loss of the thing, if—
 - (a) a prosecution for a offence relating to the thing is not instituted within 90 days of the seizure; or
 - (b) the court does not find the offence proved in a prosecution for an offence relating to the thing.
- (2) A thing seized under this division is forfeited to ICRC if a court—
 - (a) finds an offence relating to the thing to be proved; and
 - (b) orders the forfeiture.
- (3) If subsection (2) (a) applies, but a court does not order forfeiture of the thing seized, ICRC must return the thing to its owner or pay reasonable compensation to the owner in relation to the loss of the thing.

Division 10.3 Technical inspectors

164 Powers to enter and inspect premises

For part 5 (Technical regulation), a technical inspector has all the powers of an ICRC inspector under division 10.2, and, for that purpose, division 10.2 applies but with the following changes:

- (a) a reference to functions of an ICRC inspector are to be read as a reference to functions of a technical inspector for the purposes of part 5;
- (b) in relation to an offence, it applies only in relation to an offence concerning a contravention of—
 - (i) a technical code; or

- (ii) a direction by the director-general under part 5 about a technical code; or
- (iii) a written requirement by the director-general under part 5 for the provision of information or a document for that part; or
- (c) a provision requiring ICRC to return a thing seized under division 10.2 or pay compensation in relation to the loss of the thing is to be read as applying to the Territory in relation to a thing seized under this division.

Division 10.4 Authorised people for utility

165 Powers to enter and inspect premises

For part 8, an authorised person for a utility has all the powers of an ICRC inspector under division 10.2 and, for that purpose, division 10.2 applies but with the following changes:

- (a) a reference to functions of an ICRC inspector are to be read as a reference to functions of an authorised person in relation to part 8;
- (b) it applies only in relation to an offence against part 8;
- (c) a provision requiring ICRC to return a thing seized under division 10.2 or pay compensation in relation to the loss of the thing is to be read as applying to the utility in relation to a thing seized under this division.

Division 10.5 Miscellaneous

166 Self-incrimination etc

- (1) A person is not excused from providing information, producing a document or answering a question when required to do so under this part on the ground that the information, document or answer might tend to incriminate the person.

(2) However—

- (a) the provision of the information, document or answer; or
- (b) any information, document or thing obtained as a direct or indirect consequence of providing the information, document or answer;

is not admissible in evidence against the person in criminal proceedings, other than proceedings for—

- (c) an offence to which this part applies; or
- (d) any other offence in relation to the falsity of the information, document or answer.

Note 1 A reference to an offence against a Territory law includes a reference to a related ancillary offence, eg attempt (see [Legislation Act](#), s 189).

Note 2 The [Legislation Act](#), s 171 deals with the application of client legal privilege.

Part 11 Certain causes of action against customer

Note This part applies to NERL retailers (see s 75B).

167 Proceedings in Magistrates Court—amounts over \$10 000

- (1) This section applies to a proceeding in relation to—
 - (a) the recovery of a customer debt that is more than \$10 000; or
 - (b) any other cause of action against a customer for more than \$10 000 in relation to which an application to ACAT may be made under part 12 (Complaints to ACAT about utilities).
- (2) A utility may not begin a proceeding to which this section applies against the customer in the Magistrates Court unless the utility has given the customer written notice of its intention to do so.
- (3) The notice—
 - (a) must be given at least 7 days before the day the proceeding is begun; and
 - (b) must include a statement about—
 - (i) the customer's rights to make an application in relation to a complaint to the ACAT under part 12; and
 - (ii) the effect of the *Magistrates Court Act 1930*, section 266 (Complaints under Utilities Act, pt 12).
- (4) In this section:
customer debt—see section 169.

168 Civil dispute applications to ACAT

- (1) This section applies in relation to—
 - (a) the recovery of a customer debt; or

- (b) any other cause of action against a customer in relation to which an application to ACAT may be made under part 12 (Complaints to ACAT about utilities).
- (2) A utility may not make an application to the ACAT under the *ACT Civil and Administrative Tribunal Act 2008*, part 4 (Civil disputes) in relation to the debt or cause of action unless the utility has given the customer written notice of its intention to do so.
- (3) The notice—
 - (a) must be given at least 7 days before the day the application is made; and
 - (b) must include a statement about the customer's rights to make an application in relation to a complaint to the ACAT under part 12.
- (4) In this section:
customer debt—see section 169.

Part 12 **Complaints to ACAT about utilities**

Division 12.1 **Preliminary**

169 **Definitions—pt 12**

In this part:

complainant—see section 172.

complaint—see section 172.

customer debt means an amount payable by a customer to a utility in relation to the provision of a utility service to premises for the customer.

registrar means the registrar of the ACAT.

respondent, in relation to a complaint, means the utility the subject of the complaint.

utility, in relation to an act or omission, includes a person who was licensed at the time of the act or omission.

withdrawal, of a utility service, includes the reduction or termination of the service, whether by disconnection from a network or otherwise.

170 **Application—pt 12**

This part does not apply to a complaint by a utility.

Note This part applies to NERL retailers and NERL exempt sellers (see s 75B and s 75C).

171 Principles—pt 12

In exercising its functions under this part, the ACAT must consider the following principles:

- (a) that utility services should continue to be provided to complainants suffering financial hardship;
- (b) that the rights of complainants under the Act should be protected.

Division 12.2 Applications to ACAT

172 ACAT applications

A person (the *complainant*) mentioned in table 172, column 2 may apply to the ACAT in relation to a matter (the *complaint*) mentioned in column 3 in relation to the complainant.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

Table 172 ACAT applications

Note Items 3 to 5 do not apply to NERL retailers (see s 75B).

column 1 item	column 2 complainant	column 3 complaint
1	consumer affected by contravention	contravention of customer contract, or customer retail contract or customer connection contract made under the <i>National Energy Retail Law (ACT)</i> , by a utility
2	consumer affected by contravention	contravention of an industry code dealing with utility service standards by a utility
3	consumer	a utility fails to provide a utility service to consumer or withdraws a utility service from consumer, and failure or withdrawal causes substantial hardship, or is likely to cause substantial hardship, to consumer
4	person affected by contravention	contravention of s 51 (Protection of personal information) by a utility

column 1 item	column 2 complainant	column 3 complaint
5	person affected by contravention	contravention by a utility of an obligation under this Act in relation to its network operations
6	person affected by act or omission	act or omission of an authorised person for a utility in relation to network operations
7	person on whom charge imposed	capital contribution charge imposed under s 101

173 Help with applications about failure to provide, or withdrawal of, utility services

- (1) This section applies if—
 - (a) the registrar considers that a person making an application, or considering making an application, needs help with the application; and
 - (b) the application is in relation to the failure to provide a utility service to the person or the withdrawal of a utility service from the person.
- (2) The registrar must ask the person whether the person wants the registrar to put the application in writing for the person.
- (3) If the person wants the registrar to put the application in writing, the registrar must do so.
- (4) This section is in addition to the *ACT Civil and Administrative Tribunal Act 2008*, section 13 (Help with applications etc).

174 Advising Minister etc about systemic problems

- (1) This section applies if it appears to the ACAT that applications under this part to the ACAT indicate a systemic problem in relation to—
 - (a) the operation of this part; or

- (b) other matters that come to the ACAT's attention in the course of exercising its functions under this part.
- (2) The ACAT must tell the following about the problem:
 - (a) each Minister responsible for administering the Act;
 - (b) the ICRC.
- (3) This section is in addition to the *ACT Civil and Administrative Tribunal Act 2008*, section 14 (Advising Attorney-General about systemic problems).

Division 12.3 Preliminary inquiries

175 Preliminary inquiries—registrar

If a person makes a complaint, the registrar may make inquiries of the person, respondent or anyone else to decide—

- (a) whether this part applies to the matter complained of; and
- (b) if so, whether the ACAT should consider the matter.

Division 12.4 Dismissal of complaints

176 Dismissal of complaints about utilities

- (1) The ACAT may dismiss a complaint about a utility if satisfied that—
 - (a) this part does not apply to the matter complained of; or
 - (b) the complaint has been withdrawn or abandoned (for example, because the complainant fails to proceed with the complaint within a reasonable time); or

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (c) the complaint relates to a matter, or the last of a series of matters, that happened more than 1 year before the day the complaint was made; or
- (d) if the registrar makes an inquiry under section 175 of the person making the complaint—the person has not responded to the inquiry; or
- (e) the complainant has not made reasonable efforts to resolve the matter complained of with the utility, particularly in accordance with the utility's complaint handling procedures; or
- (f) the matter complained of has already been dealt with adequately by the ACAT or otherwise; or
- (g) a remedy more appropriate than action under this part is readily available to the complainant; or
- (h) it is otherwise appropriate to do so.

Note The ACAT may dismiss an application if it is frivolous or vexatious (see [ACT Civil and Administrative Tribunal Act 2008](#), s 32).

- (2) If the ACAT dismisses a complaint, it must give each party written notice of the dismissal, setting out its reasons for the dismissal.

Division 12.5 Powers and decisions of ACAT

177 Complainant's records

- (1) This section applies if a complainant makes a complaint about a utility.
- (2) The utility must give the ACAT the utility's records, or access to the records, in relation to the complainant.
- (3) The complainant is taken to consent to the disclosure of the records to the ACAT.

Note See s 51 (Protection of personal information).

178 ACAT decisions

- (1) This section applies if the ACAT is satisfied, in relation to a complainant, that—
 - (a) the respondent has—
 - (i) contravened a customer contract; or
 - (ii) contravened section 51 (Protection of personal information); or
 - (iii) contravened an obligation under this Act in relation to its network operations; or
 - (b) the respondent has caused, or would cause, substantial hardship by failing to provide, or withdrawing, a utility service; or
 - (c) an authorised person for the respondent has acted improperly in relation to network operations; or
 - (d) a capital contribution charge, of an amount of not more than \$10 000, imposed by the respondent is excessive.
- (2) Without limiting the orders the ACAT may make, the ACAT may—
 - (a) for a complaint that a capital contribution charge is excessive—give a direction under section 182 (Reviewable capital contribution charges); or
 - (b) in any other case—
 - (i) give the written directions to the respondent that it considers necessary requiring the respondent to remedy the matter mentioned in subsection (1); or
 - (ii) give another direction under this division; or
 - (iii) make a declaration under this division.
- (3) A respondent must comply with a direction given to it under this division.

179 Continuity of utility services—nonpayment of customer debt

- (1) This section applies to a complaint about the actual or potential withdrawal of a utility service because of a failure to pay a customer debt in relation to residential premises.
- (2) If the ACAT is satisfied that the withdrawal of the utility services causes, or would cause, substantial hardship for a consumer, the ACAT may give the respondent a written direction—
 - (a) not to withdraw the service; or
 - (b) if the service has been withdrawn—to restore the service as soon as practicable and, in any event, within 24 hours after the direction is given to the respondent.
- (3) A direction may contain ancillary directions, for example, that the service not be withdrawn—
 - (a) during a stated period; or
 - (b) unless the consumer fails to comply with a stated condition.

Note 1 See the national energy retail rules, pt 6 (De-energisation (or disconnection) of premises—small customers).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

180 Discharge of customer debt

- (1) If the ACAT is satisfied that payment of a customer debt in relation to residential premises would cause substantial hardship for the customer, the ACAT may, in writing, declare that the debt is discharged in whole or to a stated extent.
- (2) The declaration may provide that the discharge is conditional on payment by the customer of a stated amount or amounts in accordance with the declaration.

- (3) A declaration has effect for all purposes according to its terms.
- (4) The amount of the debt discharged by a declaration may not be more than—
 - (a) \$10 000; or
 - (b) if another amount is prescribed by regulation—the prescribed amount.

181 Payment for loss or damage

- (1) If the ACAT is satisfied that a complainant suffered loss or damage because of an act by the respondent, or an authorised person for the respondent, of a kind mentioned in section 178 (ACAT decisions), the ACAT may give the respondent a written direction to pay a stated amount to the complainant for the loss or damage.
- (2) The direction may not be given in relation to a punitive amount.
- (3) The amount payable under the direction is a debt due to the complainant in whose favour the direction is given.
- (4) In giving the direction, the ACAT must take account of the extent (if any) to which the complainant—
 - (a) caused, or contributed to, the loss or damage; or
 - (b) obstructed, or interfered with, the exercise of the respondent's functions under this Act.
- (5) The amount stated in a direction may not be more than—
 - (a) \$10 000; or
 - (b) if another amount is prescribed by regulation—the prescribed amount.
- (6) The registrar must, if asked by the complainant in whose favour a direction is made, give the complainant a copy of the direction certified by the registrar.

182 Reviewable capital contribution charges

- (1) This section applies if the ACAT is satisfied that a capital contribution charge imposed by the respondent is excessive.
- (2) The ACAT may give the respondent a written direction to reduce the charge to the amount stated in the direction.
- (3) For subsection (2), the ACAT must state an amount that it considers reasonable having regard to—
 - (a) the cost of the work to which the charge relates; and
 - (b) the relevant industry code.
- (4) The ACAT may only give a direction under subsection (2) in relation to a capital contribution charge of not more than \$10 000.
- (5) To remove any doubt, this section is additional to, and does not limit—
 - (a) section 179 (Continuity of utility services—nonpayment of customer debt); and
 - (b) section 180 (Discharge of customer debt).

183 Reimbursement of utilities for customer debts discharged

If a customer debt owed to a utility is discharged under section 180 (Discharge of customer debt), the amount discharged is a debt due to the utility by the Territory.

Division 12.6 Confidential information

184 Protection of confidential information

- (1) The ACAT must preserve the confidentiality of information disclosed to, or obtained by, the ACAT in the exercise of its functions under this part, including—
 - (a) personal information; and

- (b) information that—
 - (i) could affect the competitive position of a utility or someone else; or
 - (ii) is commercially sensitive for another reason.
- (2) The [ICRC Act](#), sections 44 to 48 apply, so far as applicable, in relation to the functions of the ACAT under this part as if—
 - (a) a reference to the ICRC were a reference to any of the following:
 - (i) the ACAT;
 - (ii) a person who is or has been an ACAT member;
 - (iii) a person who is or has been a member of the staff of the ACAT;
 - (iv) a person who is or has been acting under the direction or authority of the ACAT; and
 - (b) any other necessary changes were made.
- (3) In this section:

ACAT member—see the [ACT Civil and Administrative Tribunal Act 2008](#), dictionary, definition of *tribunal member*.

Part 13 Community service obligations

219 Purposes of pt 13

The purposes of this part are:

- (a) to oblige utilities to provide utility services in accordance with relevant Government programs, for example, for community services, the environment or other social issues; and
- (b) to achieve that result by agreement with particular utilities or, where agreement is not reached, by directions under this part; and
- (c) to provide utilities with a reasonable recompense for the provision of services in accordance with such directions.

Note 1 This part applies to NERL retailers (see s 75).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

220 Agreement to be sought

A direction must not be given under section 221 unless the responsible Minister is satisfied that, despite all reasonable efforts having been made, no agreement has been reached with the utility about achieving the intended result or about the liability for the associated costs.

221 Direction by Minister

- (1) The Minister responsible for a Government program may give a written direction to a utility to take stated action that the Minister considers appropriate to ensure that the utility's services are provided in accordance with the program.

- (2) A direction may, for example, require the utility to provide particular services to particular classes of people free of charge, at stated charges or subject to stated discounts or rebates.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (3) A direction must state the Minister's estimate of the cost to be incurred by the utility in complying with the direction.

222 Determination of costs

The cost of giving effect to a direction under section 221 is—

- (a) in relation to a utility service of a kind currently provided by the utility—the additional cost that would be avoided by the utility if it did not give effect to the direction; and
- (b) in relation to a proposed utility service—the cost that would be incurred by the utility in providing the service in accordance with the direction.

223 Liability for costs

- (1) A direction under section 221 has no effect unless the Treasurer certifies in writing that proper arrangements exist for the Territory to pay to the utility the amount of the costs—
- (a) stated in the direction; or
- (b) where a dispute about the cost is determined by arbitration because of section 225—as so determined.
- (2) Where a direction is given to a utility, the amount of the costs fixed in accordance with subsection (1) is a debt due to the utility by the Territory.

224 Compliance with direction

A utility must comply with a direction given to it under section 221.

225 Arbitration of dispute about cost

- (1) If the responsible Minister and the utility concerned dispute the cost of complying with a direction under section 221, either party may refer the dispute to ICRC for arbitration.
- (2) ICRC must arbitrate a dispute so referred.
- (3) The following provisions of the [ICRC Act](#), part 6 apply, so far as applicable, to the arbitration:
 - (a) section 33 (1), (2) and (5) (appointment and powers of arbitrator);
 - (b) section 34 (draft determinations);
 - (c) section 36 (1) (parties to give effect to determination);
 - (d) section 37 (termination by parties);
 - (e) section 38, but not paragraph (d) (termination by arbitrator);
 - (f) section 39 (variation of arbitration);
 - (g) section 40 (application of [Commercial Arbitration Act 1986](#)).

Part 14 Streetlighting and stormwater

Division 14.1 General

226 Definitions for pt 14

In this part:

installation, of a territory network facility, includes—

- (a) the construction or extension of the facility on, over or under any land or water; and
- (b) the attachment of the facility to any building or other structure; and
- (c) any activity that is ancillary or incidental to an activity mentioned in paragraph (a) or (b).

interference, with a territory network or territory network facility, includes an action that—

- (a) interferes with the safe or efficient operation of the network or facility or is likely to have that effect; or
- (b) inhibits or obstructs lawful access to the network or facility or is likely to have that effect.

stormwater drainage means the collection and carriage of water run-off in or through an urban area.

stormwater network—see section 227.

stormwater network boundary—see section 228.

stormwater network code—see section 228.

streetlighting does not include streetlighting only for decorative or artistic purposes.

streetlight network—see section 229.

streetlight network code—see section 230.

territory network means a streetlight network or stormwater network.

territory network facility means any part of the infrastructure of a territory network.

territory network operations means work carried out by or for the Territory under this part for the provision of a territory service.

territory network protection notice means a notice under section 249.

territory service means streetlighting or stormwater drainage.

territory service authorised person means a territory service authorised person under section 242.

227 Stormwater network

- (1) For this Act, a *stormwater network* is the infrastructure used, or for use, in relation to stormwater drainage.

Examples of infrastructure

- 1 drains, channels, floodways, mains, pipes, pollutant traps and storage facilities
- 2 access holes, inlet sumps and surcharge sumps
- 3 equipment associated with the infrastructure
- 4 a thing ancillary to the infrastructure

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) However, a *stormwater network* does not include infrastructure outside the stormwater network boundary and anything else excluded under the stormwater network code.

228 Stormwater network code and boundary

- (1) The Minister may approve a *stormwater network code* for this part.

- (2) The *stormwater network boundary* is to be worked out in accordance with the stormwater network code.
- (3) The code is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

229 Streetlight network

- (1) For this Act, a *streetlight network* is the infrastructure used, or for use, in relation to the provision of streetlighting.

Examples of infrastructure

- 1 electrical power and control cables, and ducts or pipes for cables
- 2 switching equipment
- 3 lamps, brackets, insulators and fittings
- 4 wires and ducts or pipes for wires or equipment
- 5 fuses
- 6 a structure supporting the infrastructure
- 7 equipment associated with the infrastructure
- 8 a thing ancillary to the infrastructure

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) However, a *streetlight network* does not include infrastructure excluded under the streetlight network code.

230 Streetlight network code

- (1) The Minister may approve a *streetlight network code* for this part.
- (2) The code is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

Division 14.2 Territory network operations

Subdivision 14.2.1 General powers

231 Installation of territory network facilities

- (1) For the provision of a territory service, the Territory may, at any time—
 - (a) enter and occupy land; and
 - (b) carry out any work on the land that is necessary or desirable for installing a territory network facility.
- (2) Under subsection (1) (b), the Territory may, for example, carry out any of the following work:
 - (a) make surveys, take samples and examine the soil;
 - (b) construct, install or place any plant, machinery, equipment or goods;
 - (c) fell or lop trees, or clear and remove vegetation;
 - (d) interrupt the provision of a territory service by the Territory;
 - (e) make cuttings and excavations;
 - (f) level the land or make roads;
 - (g) erect offices, workshops, sheds, other buildings, fences and other structures;
 - (h) demolish, destroy or remove any territory network facility installed or used by the Territory in relation to the provision of a territory service;
 - (i) put a gate or passageway in a fence or wall (except a wall of a building) that prevents or hinders the Territory's work under this section, or remove the gate or passageway;
 - (j) temporarily divert or stop traffic on a public road or bridge;

- (k) restore the land, or fences, walls or other structures on the land, affected by the Territory's work and, for that purpose, remove and dispose of soil, vegetation and other material.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (3) This section does not entitle the Territory to act under subsection (1) on land for which it is not the land-holder unless—
- (a) it or the Executive has an appropriate interest in the land; or
- (b) the owner of the land agrees to the action.
- (4) If subsection (2) (i) applies, the Territory must ensure, so far as practicable, that the work is carried out in a way that minimises inconvenience and disruption to the passage of people, vehicles and vessels.
- (5) This section has effect in relation to a tree that is a registered tree under the [Tree Protection Act 2005](#) subject to that Act, part 3 (Protection of trees).

Note Under the [Tree Protection Act 2005](#), pt 3 it is an offence to damage a registered tree (or do prohibited groundwork in the tree's protection zone) unless the damage or groundwork is allowed under that Act. Application may be made to the conservator for approval of tree damaging activity or prohibited groundwork (including in urgent circumstances).

232 Maintenance of territory network facilities

- (1) The Territory may, at any time, maintain a territory network facility and, for that purpose, do anything necessary or desirable, including, for example—
- (a) entering and occupying land; and

(b) carrying out any work mentioned in section 231.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

(2) For subsection (1), the maintenance of a territory network facility includes, for example, the following work:

(a) the alteration, removal, repair, replacement or cleaning of any part of the facility;

(b) the provisioning of the facility with material or information (whether in electronic form or otherwise);

(c) inspecting or otherwise ensuring the proper functioning of the facility from time to time;

(d) action to which a territory network protection notice relates.

(3) This section has effect in relation to a tree that is a registered tree under the [Tree Protection Act 2005](#) subject to that Act, part 3 (Protection of trees).

Note Under the [Tree Protection Act 2005](#), pt 3 it is an offence to damage a registered tree (or do prohibited groundwork in the tree's protection zone) unless the damage or groundwork is allowed under that Act. Application may be made to the conservator for approval of tree damaging activity or prohibited groundwork (including in urgent circumstances).

233 National land

Functions of the kind exercisable by the Territory under this part are exercisable in relation to national land only by agreement with the Commonwealth.

Subdivision 14.2.2 Performance of territory network operations

234 Damage etc to be minimised

In carrying out territory network operations, the Territory must take all reasonable steps to ensure that it causes as little inconvenience, detriment and damage as is practicable.

235 Notice to land-holder

- (1) Before the Territory begins territory network operations in relation to national land or private land, it must give the land-holder written notice of the proposed operations.
- (2) The notice must be given to the land-holder at least 7 days before the operations begin.
- (3) The notice must—
 - (a) so far as practicable, state the following matters:
 - (i) the purpose of the operations;
 - (ii) the nature of the activities involved;
 - (iii) the parts of the land likely to be affected;
 - (iv) the period or periods during which the activities are expected to be carried out; and
 - (b) contain a statement indicating the Territory's obligations under this part—
 - (i) to take all reasonable steps to ensure that it causes as little inconvenience, detriment and damage as is practicable; and
 - (ii) to remove its property and waste; and
 - (iii) to restore the land.

- (4) The land-holder may waive its right to all or part of the minimum period of notice under subsection (2).
- (5) Subsection (1) does not apply if the operations are to be carried out in urgent circumstances in which it is necessary to protect—
 - (a) the integrity of a territory network or territory network facility; or
 - (b) the health or safety of people; or
 - (c) public or private property; or
 - (d) the environment.

236 Notice about lopping trees etc on private land

- (1) This section applies to territory network operations to the extent that they involve—
 - (a) the felling or lopping of trees on private land; or
 - (b) the trimming of roots of trees or other plants on private land; or
 - (c) the clearing or removal of vegetation on private land.
- (2) Before the Territory begins the operations, it must give the land-holder written notice of the proposed operations.
- (3) The notice—
 - (a) must be given at least 7 days before the operations begin; and
 - (b) must indicate the trees or vegetation affected and the activity proposed; and
 - (c) may require the land-holder to carry out the activity within a stated period; and
 - (d) if paragraph (c) applies—must contain a statement about the effect of subsection (6); and

- (e) if the operations relate to other territory network operations for which notice is required under this subdivision—may be given in or with the notice of the other operations.
- (4) The land-holder may waive its right to all or part of the minimum period of notice under subsection (3) (a).
- (5) If subsection (3) (c) applies, the stated period within which the land-holder is required to carry out the activity must be at least 7 days beginning on the day the notice is given to the land-holder.
- (6) If the land-holder does not carry out the activity in accordance with a requirement in the notice mentioned in subsection (3) (c)—
 - (a) the Territory may carry out the activity; and
 - (b) the reasonable expenses incurred by the Territory in carrying out the activity are a debt owing to the Territory by the land-holder.
- (7) Subsection (6) (b) does not apply to a tree or vegetation growing on the land before a territory network facility was installed on the land.
- (8) Subsection (2) does not apply, and the Territory may carry out the operations at its own expense, in urgent circumstances in which it is necessary to protect—
 - (a) the integrity of a territory network or a territory network facility; or
 - (b) the health or safety of people; or
 - (c) public or private property; or
 - (d) the environment.

237 Territory network operations affecting heritage significance

- (1) If a notice under section 235 or section 236 is about territory network operations that may affect a place or object registered, or nominated for provisional registration, under the *Heritage Act 2004*, the Territory must also give a copy of the notice to the heritage council at least 7 days before the day operations begin.
- (2) Subsection (1) does not apply if the operations are to be carried out in urgent circumstances in which it is necessary to protect—
 - (a) the integrity of a territory network or territory network facility; or
 - (b) the health or safety of people; or
 - (c) public or private property; or
 - (d) the environment.

238 Notice to utilities

- (1) This section applies to territory network operations that consist of, or include, an activity that affects or is reasonably likely to affect a network facility under the care and management of a utility.
- (2) Before the Territory begins the operations, it must give the utility written notice of the proposed operations.
- (3) The notice must—
 - (a) be given to the utility at least 7 days before the operations begin; and
 - (b) so far as practicable, state the following matters:
 - (i) the purpose of the operations;
 - (ii) the nature of the activities involved;
 - (iii) the network facility affected;

- (iv) the period or periods during which the activities are expected to be carried out.
- (4) The utility may waive its right to notice under subsection (2).
- (5) Subsection (2) does not apply if the operations are to be carried out in urgent circumstances in which it is necessary to protect—
 - (a) the integrity of a territory network or territory network facility; or
 - (b) the health or safety of people; or
 - (c) public or private property; or
 - (d) the environment.

239 Removal of Territory's property and waste

- (1) This section applies if the Territory carries out an activity as territory network operations on land for which it is not the land-holder.
- (2) The Territory must, as soon as practicable, remove from the land—
 - (a) all of the following that the Territory constructed, installed or placed on the land and that do not form part of, or are not to be used in the operation of, the territory network facility to which the activity related:
 - (i) items of plant, machinery, equipment and other goods;
 - (ii) offices, workshops, sheds and other buildings;
 - (iii) roads and tracks; and
 - (b) all spoil, waste and rubbish and cleared vegetation resulting from the activity.
- (3) The obligation in subsection (2) is subject to any agreement to the contrary between the Territory and the land-holder.

240 Land to be restored

- (1) This section applies if the Territory carries out territory network operations on land for which it is not the land-holder.
- (2) The Territory must take all reasonable steps to ensure that the land is restored as soon as practicable to a condition that is similar to its condition before the operations began.
- (3) Subsection (2) does not require the restoration of land to a condition that would involve—
 - (a) an interference with—
 - (i) a territory network or territory network facility; or
 - (ii) a network or network facility; or
 - (b) a contravention of a territory law.
- (4) The obligation in subsection (2) is subject to any agreement to the contrary between the Territory and the land-holder.

241 Compensation

- (1) A person may claim reasonable compensation from the Territory if the person suffers loss or expense because of territory network operations.
- (2) Compensation may be claimed and ordered in a proceeding for compensation brought in a court of competent jurisdiction.
- (3) A court may order the payment of reasonable compensation for the loss or expense only if satisfied it is just to make the order in the circumstances of the particular case.
- (4) Without limiting subsection (3), a court may take into account whether the Territory has satisfied its obligations under section 239 (Removal of Territory's property and waste) and section 240 (Land to be restored) in considering whether it is just to make an order under this section.

Subdivision 14.2.3 Authorised people and entry to premises

242 Territory service authorised people

(1) Each of the following is a territory service authorised person for this part:

(a) if the Territory engages a utility to exercise a function under this part—an authorised person for the utility under section 114 (Appointment) whose functions are, or include, the exercise of a function under this part;

Note Section 114 (2) provides that an authorised person must exercise his or her functions in accordance with the conditions of appointment and any direction given to the person by the utility.

(b) if the Territory engages an entity (other than a utility or public servant) to exercise a function under this part—a person appointed by the entity as a territory service authorised person for this part;

(c) in any other case—a public servant appointed under subsection (2).

(2) The director-general may appoint a public servant as a territory service authorised person for this part.

Note 1 For the making of appointments (including acting appointments), see the [Legislation Act](#), div 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

(3) A territory service authorised person must exercise the person's functions under this part in accordance with the conditions of appointment (if any) and any direction given to the person by the appointer.

(4) In this section:

appointer, for a territory service authorised person, means—

- (a) if the Territory engages a utility to exercise a function under this part—the utility; or
- (b) if the Territory engages an entity (other than a utility or public servant) to exercise a function under this part—the entity; or
- (c) in any other case—the director-general.

243 Identity cards

- (1) If the Territory engages a utility to exercise a function under this part, the identity card for each territory service authorised person for the utility is the identity card for the person under section 115 (Identity cards).
- (2) If the Territory engages an entity (other than a utility or public servant) to exercise a function under this part, the entity must give each territory service authorised person for the entity an identity card stating the person's name and that the person is a territory service authorised person.
- (3) The director-general must give each territory service authorised person appointed under section 242 (2) an identity card stating the person's name and that the person is a territory service authorised person.
- (4) The identity card mentioned in subsection (2) or (3) must show—
 - (a) a recent photograph of the person; and
 - (b) the card's date of issue and expiry; and
 - (c) anything else prescribed by regulation.

- (5) A person commits an offence if—
- (a) the person is a person mentioned in subsection (2) or (3); and
 - (b) the person stops being a territory service authorised person; and
 - (c) the person does not return the person's identity card to the appointer as soon as practicable, but no later than 7 days after the day the person stops being a territory service authorised person.

Maximum penalty: 1 penalty unit.

- (6) An offence against this section is a strict liability offence.

- (7) In this section:

appointer, for a territory service authorised person—see section 242 (4).

244 Entry to premises—territory network operations

- (1) If the Territory is authorised under this division to carry out territory network operations affecting particular premises, a territory service authorised person in relation to the operations may—
- (a) enter the premises, with the people, vehicles and things that are necessary and reasonable for the operations; and
 - (b) carry out the activities necessary for the operations.
- (2) The territory service authorised person may not remain on the premises if the person does not produce the person's identity card when asked by the land-holder or person apparently in charge of the premises.
- (3) The territory service authorised person may enter and remain on the premises under this section with the assistance that is necessary and reasonable.

245 Entry to premises—inspection of connections etc

- (1) A territory service authorised person in relation to a territory network may enter and remain on any premises—
 - (a) to check work associated with the connection of the premises to the network; or
 - (b) to check the operation of a connection between the premises and the network, or install, repair, remove or replace the connection; or
 - (c) for a purpose related to the connection of the premises to the network, or its withdrawal.
- (2) The territory service authorised person may not remain on the premises if the person does not produce the person's identity card when asked by the land-holder or person apparently in charge of the premises.
- (3) The territory service authorised person may enter and remain on the premises under this section—
 - (a) at any reasonable time; and
 - (b) with the assistance that is necessary and reasonable.

Subdivision 14.2.4 Miscellaneous

246 Order to enforce exercise of functions

- (1) This section applies if—
 - (a) a territory service authorised person is entitled to exercise a function under this division in relation to premises; and
 - (b) someone obstructs, or proposes to obstruct, the authorised person in the exercise of the function.

- (2) The Magistrates Court may, on the application of the territory service authorised person, make an order authorising a police officer or anyone else named in the order to use the assistance and force that are necessary and reasonable to enable the function to be exercised.
- (3) A copy of an application under subsection (2) must be given to the obstructor, and the obstructor is entitled to appear and be heard on the hearing of the application.

247 Ownership of territory network facilities

The owner or occupier of land to which a territory network facility is attached has no proprietary interest in the facility only because it is attached to the land.

Division 14.3 Protection of territory networks

248 Interference with territory networks

A person commits an offence if the person—

- (a) does something that interferes with a territory network or a territory network facility; and
- (b) is reckless about whether doing the thing would interfere with the network or facility.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

249 Territory network protection notices

- (1) This section applies if the Territory is satisfied that a structure or activity on, under or over land or water interferes, or is reasonably likely to interfere, with a territory network or territory network facility.

- (2) For a structure, the Territory may give the land-holder written notice to take whatever action is necessary to stop the interference with the network or facility, or to remove the likelihood of that interference.
- (3) For an activity, the Territory may give the relevant person written notice to take whatever action is necessary to stop the interference with the network or facility, or to remove the likelihood of that interference
- (4) The notice must—
 - (a) indicate the structure or activity; and
 - (b) require the person given the notice to take stated action to stop the interference, or remove the likelihood of the interference, within a stated period; and
 - (c) contain a statement about the effect of subsection (6).
- (5) The stated period must be at least 7 days, starting on the day the notice is given.
- (6) If the person given the notice does not comply with the notice—
 - (a) the Territory may do whatever is necessary to stop the interference or remove the likelihood of the interference; and
 - (b) the reasonable expenses incurred by the Territory to stop the interference or remove the likelihood of the interference are a debt owing to the Territory by the person given the notice.
- (7) Subsection (6) (b) does not apply to a structure that was, or an activity that began, on, under or over the land before the installation of the territory network or territory network facility to which the interference relates.
- (8) In urgent circumstances the Territory may, without giving a notice under subsection (2) or subsection (3) and at the Territory's expense, do whatever is necessary to stop the interference or remove the likelihood of the interference.

- (9) If both of the following happen, the amount of the loss or damage is a debt owing to the person by the Territory:
- (a) the Territory acts under this section in relation to a structure that was, or an activity that began, on, under or over the land before the installation of the territory network or territory network facility to which the interference relates;
 - (b) the person suffers loss or damage because of the Territory's action.
- (10) This section has effect in relation to a tree that is a registered tree under the *Tree Protection Act 2005* subject to that Act, part 3 (Protection of trees).

Note Under the *Tree Protection Act 2005*, pt 3 it is an offence to damage a registered tree (or do prohibited groundwork in the tree's protection zone) unless the damage or groundwork is allowed under that Act. Application may be made to the conservator for approval of tree damaging activity or prohibited groundwork (including in urgent circumstances).

- (11) In this section:

activity does not include an activity done by or for a utility under this Act.

person given the notice means—

- (a) for a structure—the landholder; or
- (b) for an activity—the relevant person.

relevant person, in relation to an activity, means—

- (a) the person carrying out the activity; or
- (b) the person on whose behalf the activity is being carried out.

urgent circumstances means circumstances in which it is necessary to protect—

- (a) the integrity of the network or facility; or
- (b) the health or safety of people; or
- (c) public or private property; or
- (d) the environment.

250 Territory network protection action affecting heritage significance

- (1) If a notice under section 249 is about action that may affect a place or object registered, or nominated for provisional registration, under the *Heritage Act 2004*, the Territory must also give a copy of the notice to the heritage council as soon as practicable.
- (2) If the Territory acts in urgent circumstances as mentioned in section 249 (8), it must give the heritage council written notice of the action as soon as practicable.

Part 15 Vicarious liability

251 References in pt 15 to *proceeding under this Act*

A reference in this part to a *proceeding under this Act* includes a reference to—

- (a) an action under this Act; and
- (b) proceeding for an offence against this Act.

Note A reference to an offence against a Territory law includes a reference to a related ancillary offence, eg attempt (see [Legislation Act](#), s 189).

252 Liability of corporations

- (1) If, in a proceeding under this Act in relation to conduct engaged in by a corporation, it is necessary to establish the state of mind of the corporation, it is sufficient to show that—
 - (a) a director, employee or agent of the corporation engaged in that conduct; and
 - (b) the director, employee or agent was, in engaging in that conduct, acting within the scope of his or her actual or apparent authority; and
 - (c) the director, employee or agent had that state of mind.
- (2) If—
 - (a) conduct is engaged in on behalf of a corporation by a director, employee or agent of the corporation; and
 - (b) the conduct is within the scope of his or her actual or apparent authority;

the conduct is taken, for the purposes of a proceeding under this Act, to have been engaged in by the corporation unless the corporation establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

- (3) A reference in subsection (1) to the *state of mind* of a person includes a reference to—
 - (a) the knowledge, intention, opinion, belief or purpose of the person; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.
- (4) A reference in this section to a *director* of a corporation includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Territory, the Commonwealth, a State or another Territory.
- (5) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.

253 Liability of people other than corporations

- (1) This section does not apply to a proceeding for an offence against section 21 (Requirement for licence).
- (2) If, in a proceeding under this Act in relation to conduct engaged in by a person other than a corporation, it is necessary to establish the state of mind of the person, it is sufficient to show that—
 - (a) the conduct was engaged in by an employee or agent of the person within the scope of his or her actual or apparent authority; and
 - (b) the employee or agent had that state of mind.
- (3) If—
 - (a) conduct is engaged in on behalf of a person other than a corporation by an employee or agent of the person; and
 - (b) the conduct is within the employee's or agent's actual or apparent authority;

the conduct is taken, for the purposes of a proceeding under this Act, to have been engaged in by the person unless the person establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

- (4) Despite any other provision of this Act, if—
- (a) a person is convicted of an offence; and
 - (b) the person would not have been convicted of the offence if subsections (2) and (3) had not been in force;
- the person is not liable to be punished by imprisonment for that offence.
- (5) A reference in this section to the *state of mind* of a person includes a reference to—
- (a) the knowledge, intention, opinion, belief or purpose of the person; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.
- (6) A reference in this section to *engaging* in conduct includes a reference to failing or refusing to engage in conduct.

Part 16 Miscellaneous

254 Determination of fees

- (1) This section does not apply to an annual licence fee.
- (2) The ICRC may determine fees for this Act (other than part 12 (Complaints to ACAT about utilities) and part 14 (Streetlighting and stormwater)).

Note The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (3) The Minister may determine fees for part 14.
- (4) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

255 Approved forms—ICRC

- (1) ICRC may approve forms in relation to its functions under this Act.
- (2) If ICRC approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see the [Legislation Act](#), s 255.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

256 Approved forms—Minister

- (1) The Minister may approve forms for this Act except in relation to ICRC's functions under this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see the [Legislation Act](#), s 255.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

257 Evidentiary certificate—Government programs

For this Act or a related law, a certificate signed by the Minister stating whether a matter is, or is part of, a Government program is evidence of the matter so stated.

258 Evidence of authorisation by utility

For this Act or a related law, a certificate that appears to be signed by or on behalf of a utility and contains a statement to the effect that—

- (a) a stated thing was done by a stated person in accordance with an authorisation by the utility; or
- (b) an authorisation by the utility was subject to a stated condition at a stated time or date;

is evidence of the matters stated.

259 Former water and sewerage rates schemes—extended operation

- (1) Despite the repeal of the [Water Rates Act 1959](#), the following provisions have effect:
- (a) the provisions of that Act immediately before the repeal continue to apply in relation to—
 - (i) an amount payable under that Act immediately before the repeal; or
 - (ii) an amount payable because of the operation of paragraph (b);

- (b) until a standard customer contract takes effect in relation to the provision of a utility service for water, the conditions applying to the provision of the service (including conditions concerning amounts payable) are the conditions that would have applied but for the repeal of that Act.
- (2) Despite the repeal of the *Sewerage Rates Act 1968*, the following provisions have effect:
- (a) the provisions of that Act immediately before the repeal continue to apply in relation to—
 - (i) an amount payable under that Act immediately before the repeal; or
 - (ii) an amount payable because of the operation of paragraph (b);
 - (b) until a standard customer contract takes effect in relation to the provision of sewerage services, the conditions applying to the provision of the service (including conditions concerning amounts payable) are the conditions that would have applied but for the repeal of that Act.

260 Compensation—safety net

- (1) If—
- (a) apart from this section, division 9.2 (Compensation) and section 241 (Compensation), the operation of any provision of this Act would result in the acquisition of property from a person otherwise than on just terms; and
 - (b) the acquisition would be unlawful because of the [Self-Government Act](#), section 23 (1);

the person acquiring the property (the *acquirer*) is liable to pay reasonable compensation to the other person in relation to the acquisition.

- (2) If the acquirer and the other person do not agree on the amount of compensation, the other person may, in a court of competent jurisdiction, recover from the acquirer such reasonable compensation as the court determines.

**260A Reminder notices and disconnection warning notices—
ACAT direction**

- (1) The ACAT may give a written direction to a NERL retailer or NERL distributor to include stated particulars in the retailer's reminder notice or disconnection warning notice or the distributor's disconnection warning notice.

- (2) In this section:

disconnection warning notice—see the national energy retail rules, rule 110 (1) (Nature of disconnection warning notices).

Note The national energy retail rules, r 110 (Disconnection warning notices—retailers and distributors) sets out the particulars to be included in disconnection warning notices.

NERL distributor means a distributor under the *National Energy Retail Law (ACT)*.

reminder notice—see the national energy retail rules, rule 109 (1) (Nature of reminder notices).

Note The national energy retail rules, r 109 (Reminder notices—retailers) sets out the particulars to be included in reminder notices.

261 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act*.

- (2) A regulation may make provision in relation to the safe or efficient provision of—
- (a) utility services, including provision prohibiting or regulating activities—
 - (i) to ensure the safe or efficient operation of a utility network or network facility; and
 - (ii) to protect people or property in relation to the operation of a utility network or network facility; and
 - (b) territory services, including provision prohibiting or regulating activities—
 - (i) to ensure the safe or efficient operation of a territory network or territory network facility; and
 - (ii) to protect people or property in relation to the operation of a territory network or territory network facility.
- (3) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

Part 18 Transitional—National Energy Retail Law

402 Meaning of *commencement day*—pt 18

In this part:

commencement day means the day the *National Energy Retail Law (ACT) Act 2012*, section 6 (Application of National Energy Retail Law) commences.

403 Licences

- (1) To remove any doubt, on the commencement day, a licence held by a person for the provision of a previous utility service is revoked.

- (2) In this section:

previous utility service means—

- (a) the supply of electricity from an electricity network to premises for consumption; or
- (b) the supply of gas from a gas distribution network to premises for consumption.

404 Existing retailer of last resort

- (1) This section applies if, immediately before the commencement day—
 - (a) a condition of a NERL retailer's licence under this Act was that the retailer must provide retailer of last resort services if required; and
 - (b) the retailer sells or supplies electricity to a person in accordance with that obligation because of a trigger event; and
 - (c) the retailer's obligation has not ended.

- (2) On and after the commencement day—
- (a) the trigger event is taken to be a RoLR event; and
 - (b) the retailer is taken to be the designated RoLR in relation to that event.
- (3) In this section:

designated RoLR—see the *National Energy Retail Law (ACT)*, section 122.

RoLR event, in relation to a retailer—see the *National Energy Retail Law (ACT)*, section 122.

trigger event, in relation to a person, means an event that resulted in an electricity supplier ceasing (permanently or temporarily) to be lawfully able to sell or supply electricity to the person's premises.

405 Certain electricity services and gas services

- (1) Despite the omission of section 6 (c) and section 9 (d) by the *National Energy Retail Law (Consequential Amendments) Act 2012*, this Act continues to apply until 31 December 2013 to a utility service mentioned in those provisions.
- (2) However, subsection (1) does not apply to a utility service that is the sale of energy to a person for premises within the meaning of the *National Energy Retail Law (ACT)*.

406 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *National Energy Retail Law (ACT) Act 2012* or the *National Energy Retail Law (Consequential Amendments) Act 2012*.

- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

407 Expiry—pt 18

- (1) This part (other than section 405) expires 5 years after the day it commences.
- (2) Section 405 expires on 31 December 2013.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

Schedule 1 Reviewable decisions

(see div 3.3A)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	37	refuse to grant licence	applicant for licence
2	37	grant licence subject to condition	applicant for licence
3	38	refuse to vary licence	licensee
4	38	vary licence on ICRC's own initiative	licensee
5	40	refuse to agree to transfer of licence	licensee
6	42	revoke a licence	person whose licence revoked

Dictionary

(see s 4)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- Australian citizen
- Australian Consumer Law (ACT)
- commissioner for revenue
- corporation
- daily newspaper
- director-general (see s 163)
- disallowable instrument (see s 9)
- exercise
- function
- magistrate
- Magistrates Court
- Minister (see s 162)
- National Electricity (ACT) Law
- National Energy Retail Law (ACT)
- National Gas (ACT) Law
- National Gas (ACT) Regulation
- national land
- notifiable instrument (see s 10)
- public servant
- reviewable decision notice
- State
- the Territory.

administrator, for part 3A (Energy industry levy)—see section 54N.

annual licence fee, for a licence, means the fee determined under section 45 (Determination of fee) for the licence for the relevant financial year.

approved meter, for division 6.4 (Passing on supply costs)—see section 97.

authorised person means a person appointed as an authorised person under section 114.

capital contribution charge—see section 101 (Capital contribution charges—network development).

complainant, for part 12 (Complaints to ACAT about utilities)—see section 172.

complaint, for part 12 (Complaints to ACAT about utilities)—see section 172.

connected with an offence, for part 10 (Enforcement)—see section 150.

consumer, in relation to a utility service, means—

- (a) a customer for the service; or
- (b) an occupier of a customer's premises to which the service is provided;

and includes an invitee of the customer or occupier.

controller—see section 135 (Appointment of controller).

customer—see section 17 (Customers).

customer contract means—

- (a) a standard customer contract; or
- (b) a negotiated customer contract.

customer debt, for part 12 (Complaints to ACAT about utilities)—see section 169.

data storage device means any article or material (for example, a disk) from which information is capable of being reproduced, with or without the aid of any other article or device.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

determined, for part 3A (Energy industry levy)—see section 54A.

electricity connection service means a connection service within the meaning of the national electricity rules, chapter 5A (Electricity connection for retail customers).

electricity distributor—

- (a) means a utility licensed for the distribution of electricity through an electricity network; and
- (b) in relation to an electricity connection service for premises—means a utility licensed to provide the service for the premises.

electricity network—see section 7 (Electricity network).

energy industry sector, for part 3A (Energy industry levy)—see section 54D (1).

energy utility, for part 3A (Energy industry levy)—see section 54D (2).

energy utility service, for part 3A (Energy industry levy)—see section 54D (3).

essential service—see section 149A.

essential service restriction—see section 149A.

fixed net regulatory cost, for part 3A (Energy industry levy)—see section 54G (3).

franchise customer—see section 17 (Customers).

gas—see section 8.

gas connection service means a connection service within the meaning of the national gas rules, part 12A (Gas connection for retail customers).

gas distribution network—see section 10 (2).

gas distributor—

- (a) means a utility licensed for the distribution of gas through a gas network; and
- (b) in relation to a gas connection service for premises—means a utility licensed to provide the service for the premises.

gas network—see section 10 (Gas networks).

gas transmission network—see section 10 (1).

ICRC means the Independent Competition and Regulatory Commission.

ICRC Act means the [Independent Competition and Regulatory Commission Act 1997](#).

ICRC inspector means a person appointed as an ICRC inspector under section 152.

industry code, for a utility service, means an industry code approved or determined under part 4 (Industry codes) that applies to the service.

installation—

- (a) of a network facility, for part 7 (Network operations)—see section 103; and
- (b) of a territory network facility, for part 14 (Streetlighting and stormwater)—see section 226.

interference—

- (a) with a network or network facility, for part 8 (Protection of networks)—see section 123; and

- (b) with a territory network or territory network facility, for part 14 (Streetlighting and stormwater)—see section 226.

land-holder—

- (a) in relation to private land, means—
- (i) an owner of the land; or
 - (ii) if the land is occupied by a person other than the owner—
an occupier of the land; and
- (b) in relation to unleased Territory land—means the Territory; and
- (c) in relation to national land—means the Commonwealth, and includes a lessee of the land.

levy, for part 3A (Energy industry levy)—see section 54A.

levy year, for part 3A (Energy industry levy)—see section 54C (1).

licence means a licence under this Act.

local regulatory cost, for part 3A (Energy industry levy)—see section 54F (1).

national electricity rules means the National Electricity Rules under the [National Electricity \(ACT\) Law](#).

national energy retail rules means the National Energy Retail Rules under the [National Energy Retail Law \(ACT\)](#).

national gas rules means the National Gas Rules under the [National Gas \(ACT\) Law](#).

national regulatory cost, for part 3A (Energy industry levy)—see section 54E (2).

national regulatory obligations, for part 3A (Energy industry levy)—see section 54E (1).

negotiated customer contract means a contract to which section 95 (Negotiated customer contracts) applies.

NERL exempt seller—see section 75A.

NERL retailer—see section 75.

net regulatory cost, for part 3A (Energy industry levy)—see section 54G (2).

network—

- (a) for this Act—means any of the following:
 - (i) an electricity network;
 - (ii) a gas network;
 - (iii) a sewerage network;
 - (iv) a water network;
 - (v) a network prescribed for a prescribed utility service under section 15 (Prescribed utility services); or
- (b) for sections 130, 131 and 132—see section 133 (Extended meaning of *network*).

network boundary—see section 16 (Network boundary).

network facility means any part of the infrastructure of a network.

network operations, for part 7 (Network operations)—see section 103.

network protection notice—means a notice under section 125 (Network protection notices).

non-franchise customer—see section 17 (Customers).

occupier, of premises—

- (a) for this Act—means a person who has, or is entitled to, lawful possession or control of the premises (whether alone or together with 1 or more other people); or
- (b) for part 10 (Enforcement)—see section 150.

offence, for part 10 (Enforcement)—see section 150.

owner, of premises, means—

- (a) a person who owns the premises; or
- (b) a lessee of the premises under a lease granted by or for the Commonwealth; or
- (c) for a unit under the *Unit Titles Act 2000*—the unit owner;

whether alone or together with 1 or more other people.

personal information—see the *Privacy Act 1988* (Cwlth), section 6 (Interpretation), but does not include information available to a section of the public.

premises includes land and place.

private land means land other than public land.

proceeding under this Act, for part 15 (Vicarious liability)—see section 251.

public land means national land or unleased Territory land.

registrar, for part 12 (Complaints to ACAT about utilities)—see section 169.

regulatory cost, for part 3A (Energy industry levy)—see section 54G (1).

related law means the *ICRC Act*.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act*, s 104).

respondent, for an application in relation to a complaint, for part 12 (Complaints to ACAT about utilities)—see section 169.

responsible utility, for a network or network facility, means a utility licensed to provide utility services using the network or network facility.

reviewable decision, for division 3.3A (Notification and review of ICRC decisions)—see section 43.

satisfied means satisfied on reasonable grounds.

sewerage connection service—see section 85.

sewerage network—see section 14.

sewerage service means the conveyance, collection, treatment and disposal of sewage by a person from the premises of another person.

sewerage utility, in relation to the provision of a sewerage connection service or sewerage service for premises, means a utility licensed to provide the relevant service for the premises.

standard customer contract—see section 92 (Creation of standard customer contracts).

stormwater drainage, for part 14 (Streetlighting and stormwater)—see section 226.

stormwater network—see section 227.

stormwater network boundary, for part 14 (Streetlighting and stormwater)—see section 228.

stormwater network code, for part 14 (Streetlighting and stormwater)—see section 228.

streetlighting, for part 14 (Streetlighting and stormwater)—see section 226.

streetlight network—see section 229.

streetlight network code, for part 14 (Streetlighting and stormwater)—see section 230.

technical code, for a utility service, means a technical code approved or determined under part 5 (Technical regulation) that applies to the service.

technical inspector means a person appointed as a technical inspector under section 67 (Technical inspectors).

territory network—see section 226.

territory network facility—see section 226.

territory network operations, for part 14 (Streetlighting and stormwater)—see section 226.

territory network protection notice, for part 14 (Streetlighting and stormwater)—see section 226.

territory service—see section 226.

territory service authorised person, for part 14 (Streetlighting and stormwater)—see section 226.

utility—

- (a) for this Act generally—means a person licensed to provide a utility service; or
- (b) for part 9 (Controller’s power to take over operations)—see section 134; or
- (c) in relation to an act or omission, for part 12 (Complaints to ACAT about utilities)—see section 169.

utility service—

- (a) for this Act generally—
 - (i) in relation to electricity—see section 6 (Electricity services); and
 - (ii) in relation to gas—see section 9 (Gas services); and
 - (iii) in relation to water—see section 11 (Water services); and
 - (iv) in relation to sewerage—see section 13 (Sewerage services); and
 - (v) includes a service prescribed to be a utility service under section 15 (Prescribed utility services); and
- (b) for division 6.2 (Standard customer contracts)—see section 86A.

water connection service—see section 83 (Water connection service).

water distributor means—

- (a) in relation to the collection or treatment of water, or both, for distribution through a water network—a utility licensed for the service; and
- (b) in relation to the distribution of water through a water network—a utility licensed for the service; and
- (c) in relation to the provision of a water connection service to premises—a utility licensed to provide the service for the premises.

water network—see section 12 (Water network).

water supplier, in relation to the supply of water to premises, means a utility licensed to supply water to the premises.

withdrawal, of a utility service, for part 12 (Complaints to ACAT about utilities)—see section 169.

year, for part 3A (Energy industry levy)—see section 54A.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

Utilities Act 2000 A2000-65

notified 20 December 2000 ([Gaz 2000 No S68](#))
s 1, s 2 commenced 20 December 2000 (IA s 10B)
pt 11, pt 12 commenced 1 March 2001 ([Gaz 2000 No S69](#))
div 16.3 commenced 20 June 2001 (s 2 (2) (a))
s 249 commenced 20 June 2001 (s 2 (2) (a) but see [Gaz 2000 No S69](#))
s 250 commenced 1 June 2001 ([Gaz 2000 No S69](#))
remainder commenced 1 January 2001 ([Gaz 2000 No S69](#))

as amended by

[Legislation \(Consequential Amendments\) Act 2001 A2001-44 pt 405](#)

notified 26 July 2001 ([Gaz 2001 No 30](#))
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 405 commenced 12 September 2001 (s 2 and see [Gaz 2001 No S65](#))

[Statute Law Amendment Act 2001 \(No 2\) A2001-56 pt 3.52](#)

notified 5 September 2001 ([Gaz 2001 No S65](#))
commenced 5 September 2001 (s 2 (1))

[Legislation Amendment Act 2002 A2002-11 pt 2.49](#)

notified LR 27 May 2002
s 1, s 2 commenced 27 May 2002 (LA s 75)
pt 2.49 commenced 28 May 2002 (s 2 (1))

[Statute Law Amendment Act 2002 \(No 2\) A2002-49 pt 3.29](#)

notified LR 20 December 2002
s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))
pt 3.29 commenced 17 January 2003 (s 2 (1))

[Criminal Code 2002 A2002-51 pt 1.25](#)

notified LR 20 December 2002
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))
pt 1.25 commenced 1 January 2003 (s 2 (1))

Endnotes

3 Legislation history

Statute Law Amendment Act 2003 A2003-41 sch 3 pt 3.20

notified LR 11 September 2003

s 1, s 2 commenced 11 September 2003 (LA s 75 (1))

sch 3 pt 3.20 commenced 9 October 2003 (s 2 (1))

Annual Reports Legislation Amendment Act 2004 A2004-9 sch 1 pt 1.35

notified LR 19 March 2004

s 1, s 2 commenced 19 March 2004 (LA s 75 (1))

sch 1 pt 1.35 commenced 13 April 2004 (s 2 and see [Annual Reports \(Government Agencies\) Act 2004 A2004-8](#), s 2 and [CN2004-5](#))

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.94

notified LR 26 March 2004

s 1, s 2 commenced 26 March 2004 (LA s 75 (1))

sch 2 pt 2.94 commenced 9 April 2004 (s 2 (1))

Statute Law Amendment Act 2004 A2004-42 sch 3 pt 3.19

notified LR 11 August 2004

s 1, s 2 commenced 11 August 2004 (LA s 75 (1))

sch 3 pt 3.19 commenced 25 August 2004 (s 2 (1))

Heritage Act 2004 A2004-57 sch 1 pt 1.11

notified LR 9 September 2004

s 1, s 2 commenced 9 September 2004 (LA s 75 (1))

sch 1 pt 1.11 commenced 9 March 2005 (s 2 and LA s 79)

Court Procedures (Consequential Amendments) Act 2004 A2004-60 sch 1 pt 1.72

notified LR 2 September 2004

s 1, s 2 commenced 2 September 2004 (LA s 75 (1))

sch 1 pt 1.72 commenced 10 January 2005 (s 2 and see [Court Procedures Act 2004 A2004-59](#), s 2 and [CN2004-29](#))

Utilities Amendment Act 2004 A2004-63

notified LR 2 September 2004

s 1, s 2 commenced 2 September 2004 (LA s 75 (1))

remainder commenced 3 September 2004 (s 2)

Utilities Amendment Act 2005 A2005-14

notified LR 24 March 2005
s 1, s 2 commenced 24 March 2005 (LA s 75 (1))
remainder commenced 24 September 2005 (s 2 and LA s 79)

Utilities (Shortage of Essential Services) Amendment Act 2005 A2005-31

notified LR 29 June 2005
s 1, s 2 commenced 29 June 2005 (LA s 75 (1))
remainder commenced 30 June 2005 (s 2)

Tree Protection Act 2005 A2005-51 sch 1 pt 1.5

notified LR 29 September 2005
s 1, s 2 commenced 29 September 2005 (LA s 75 (1))
sch 1 pt 1.5 commenced 29 March 2006 (s 2 and LA s 79)

Statute Law Amendment Act 2005 (No 2) A2005-62 sch 3 pt 3.20

notified LR 21 December 2005
s 1, s 2 commenced 21 December 2005 (LA s 75 (1))
sch 3 pt 3.20 commenced 11 January 2006 (s 2 (1))

Utilities (Energy Industry Levy) Amendment Act 2007 A2007-13

notified LR 13 June 2007
s 1, s 2 commenced 13 June 2007 (LA s 75 (1))
remainder commenced 9 July 2007 (s 2 and [CN2007-7](#))

Water Resources Act 2007 A2007-19 s 211

notified LR 20 June 2007
s 1, s 2 commenced 20 June 2007 (LA s 75 (1))
s 211 commenced 1 August 2007 (s 2 and [CN2007-8](#))

Justice and Community Safety Legislation Amendment Act 2007 A2007-22 sch 1 pt 1.14

notified LR 5 September 2007
s 1, s 2 commenced 5 September 2007 (LA s 75 (1))
sch 1 pt 1.14 commenced 6 September 2007 (s 2)

**Planning and Development (Consequential Amendments) Act 2007
A2007-25 sch 1 pt 1.34**

notified LR 13 September 2007
s 1, s 2 commenced 13 September 2007 (LA s 75 (1))
sch 1 pt 1.34 commenced 31 March 2008 (s 2 and see [Planning and Development Act 2007](#) A2007-24, s 2 and [CN2008-1](#))

National Gas (ACT) Act 2008 A2008-15 sch 2 pt 2.4

notified LR 30 June 2008
s 1, s 2 commenced 30 June 2008 (LA s 75 (1))
sch 2 pt 2.4 commenced 1 July 2008 (s 2 (1) and see [National Gas \(South Australia\) Act 2008](#) (SA), s 7)

**Justice and Community Safety Legislation Amendment Act 2008
(No 2) A2008-22 sch 1 pt 1.10**

notified LR 8 July 2008
s 1, s 2 commenced 8 July 2008 (LA s 75 (1))
sch 1 pt 1.10 commenced 29 July 2008 (s 2)

Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.58

notified LR 12 August 2008
s 1, s 2 commenced 12 August 2008 (LA s 75 (1))
sch 3 pt 3.58 commenced 26 August 2008 (s 2)

**ACT Civil and Administrative Tribunal Legislation Amendment
Act 2008 (No 2) A2008-37 sch 1 pt 1.103**

notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.103 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008](#) A2008-35, s 2 (1) and [CN2009-2](#))

Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.74

notified LR 1 September 2009
s 1, s 2 commenced 1 September 2009 (LA s 75 (1))
sch 3 pt 3.74 commenced 22 September 2009 (s 2)

Work Safety Legislation Amendment Act 2009 A2009-28 sch 2 pt 2.12

notified LR 9 September 2009
s 1, s 2 commenced 9 September 2009 (LA s 75 (1))
sch 2 pt 2.12 commenced 1 October 2009 (s 2 and see [Work Safety Act 2008](#) A2008-51 s 2 (1) (b) and [CN2009-11](#))

as modified by

ACT Civil and Administrative Tribunal (Transitional Provisions) Regulation 2009 SL2009-2 s 67 (as am by SL2009-51 s 6, s 9, A2009-54 amdt 1.3)

notified LR 29 January 2009

s 1, s 2 commenced 29 January 2009 (LA s 75 (1))

s 67 commenced 2 February 2009 (s 2 and see [ACT Civil and Administrative Tribunal Act 2008](#) A2008-35, s 2 (1) and [CN2009-2](#))

ACT Civil and Administrative Tribunal (Transitional Provisions) Amendment Regulation 2009 (No 1) SL2009-51 s 6, s 9

notified LR 30 October 2009

s 1, s 2 commenced 30 October 2009 (LA s 75 (1))

s 6, s 9 commenced 31 October 2009 (s 2)

Note This regulation only amends the [ACT Civil and Administrative Tribunal \(Transitional Provisions\) Regulation 2009](#) SL2009-2.

as amended by

Justice and Community Safety Legislation Amendment Act 2009 (No 4) A2009-54sch 1 pt 1.2, sch 1 pt 1.6

notified LR 18 December 2009

s 1, s 2 commenced 18 December 2009 (LA s 75 (1))

sch 1 pt 1.2, sch 1 pt 1.6 commenced 22 December 2009 (s 2 (2) (a) and see [Justice and Community Safety Legislation Amendment Act 2009 \(No 3\)](#) A2009-44 s 2 (3))

Note This Act also amends the [ACT Civil and Administrative Tribunal \(Transitional Provisions\) Regulation 2009](#) SL2009-2.

Fair Trading (Australian Consumer Law) Amendment Act 2010 A2010-54 sch 3 pt 3.27

notified LR 16 December 2010

s 1, s 2 commenced 16 December 2010 (LA s 75 (1))

sch 3 pt 3.27 commenced 1 January 2011 (s 2 (1))

Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.163

notified LR 30 June 2011

s 1, s 2 commenced 30 June 2011 (LA s 75 (1))

sch 1 pt 1.163 commenced 1 July 2011 (s 2 (1))

Endnotes

3 Legislation history

**Work Health and Safety (Consequential Amendments) Act 2011
A2011-55 sch 1 pt 1.11**

notified LR 14 December 2011

s 1, s 2 commenced 14 December 2011 (LA s 75 (1))

sch 1 pt 1.11 commenced 1 January 2012 (s 2 and see [Work Health and Safety Act 2011](#) A2011-35, s 2 and [CN2011-12](#))

Statute Law Amendment Act 2012 A2012-21 sch 3 pt 3.52

notified LR 22 May 2012

s 1, s 2 commenced 22 May 2012 (LA s 75 (1))

sch 3 pt 3.52 commenced 5 June 2012 (s 2 (1))

**National Energy Retail Law (Consequential Amendments) Act 2012
A2012-32 pt 14**

notified LR 14 June 2012

s 1, s 2 commenced 14 June 2012 (LA s 75 (1))

s 104 commences 1 July 2014 (s 2 (2))

s 81, s 105 commence 1 July 2015 (s 2 (3))

pt 14 remainder commenced 1 July 2012 (s 2 (1) and see [National Energy Retail Law \(ACT\) Act 2012](#) A2012-31, s 2 (1) and [CN2012-12](#))

4 Amendment history

Commencement

s 2 om R2 LA

ICRC's objects

s 3 am [A2008-37](#) amdt 1.511; [A2011-22](#) amdt 1.454

Offences against Act—application of Criminal Code etc

s 5A ins [A2007-13](#) s 4
am [A2012-32](#) s 69

Electricity services

s 6 am [A2012-32](#) s 70

Gas—terminology

s 8 sub [A2008-15](#) amdt 2.12

Gas services

s 9 am [A2012-32](#) s 71

Gas networks

s 10 sub [A2008-15](#) amdt 2.13

Customers

s 17 am [A2001-56](#) amdt 3.861, amdt 3.862; [A2012-32](#) s 72, s 73

Declaration of non-franchise customers

s 18 sub [A2001-44](#) amdt 1.4171; [A2012-21](#) amdt 3.206; [A2012-32](#) s 74

Ministerial directions

s 19 am [A2001-44](#) amdt 1.4172; [A2012-21](#) amdt 3.207

Other laws not affected

s 20 am [A2001-44](#) amdt 1.4173, amdt 1.4174; [A2003-41](#) amdt 3.383, amdt 3.384; [A2007-19](#) s 211; [A2007-22](#) amdt 1.51; [A2007-25](#) amdt 1.205, amdt 1.206; pars renum R23 LA; [A2008-15](#) amdt 2.14; [A2009-28](#) amdt 2.28, amdt 2.29; pars renum R30 LA; [A2010-54](#) amdt 3.60; [A2011-55](#) amdt 1.25

Exemption

s 22 am [A2001-44](#) amdts 1.4175-1.4177; [A2012-21](#) amdt 3.206; [A2012-32](#) s 75

Licensed utility services

s 23 am [A2003-41](#) amdt 3.385

General conditions

s 25 am [A2003-41](#) amdt 3.386; [A2011-22](#) amdt 1.454

Endnotes

4 Amendment history

Special conditions—water supply services

s 27 sub [A2012-32](#) s 76

Special conditions—electricity distribution

s 28 hdg sub [A2012-32](#) s 77

s 28 am [A2001-56](#) amdt 3.863; [A2005-62](#) amdt 3.176, amdt 3.177;
[A2012-21](#) amdt 3.201, amdt 3.202; [A2012-32](#) s 78, s 79

Special conditions—gas transmission or distribution

s 29 om [A2008-15](#) amdt 2.15

Special conditions—gas distribution or supply

s 30 am [A2003-41](#) amdt 3.387

om [A2008-15](#) amdt 2.15

Special conditions—gas distribution

s 31 am [A2012-32](#) s 80

Partnerships and other groups

s 33 am [A2003-41](#) amdt 3.454

Applications for certain licence decisions

s 34 sub [A2001-44](#) amdt 1.4178

Public consultation

s 36 am [A2003-41](#) amdt 3.388

Grant

s 37 am [A2002-49](#) amdt 3.245, amdt 3.246; [A2008-37](#) amdt 1.512,
amdt 1.513; [A2012-21](#) amdt 3.207

Variation

s 38 am [A2002-49](#) amdt 3.248; [A2008-37](#) amdt 1.514, amdt 1.515;
ss renum R28 LA; [A2012-21](#) amdt 3.207

Exemption from licence condition

s 39 am [A2001-44](#) amdt 1.4179; [A2002-49](#) amdt 3.248; [A2012-21](#)
amdt 3.207

Transfer

s 40 am [A2002-49](#) amdt 3.249, amdt 3.250; [A2008-37](#) amdt 1.516,
amdt 1.517; [A2012-21](#) amdt 3.207

Surrender

s 41 am [A2002-49](#) amdt 3.251; [A2003-41](#) amdt 3.389; [A2012-21](#)
amdt 3.207

Revocation

s 42 am [A2002-49](#) amdt 3.252; [A2008-37](#) amdt 1.518; [A2012-21](#)
amdt 3.207

Notification and review of ICRC decisions

div 3.3A hdg ins [A2008-37](#) amdt 1.519

Meaning of *reviewable decision*—div 3.3As 43 sub [A2008-37](#) amdt 1.519**Reviewable decision notices**s 43A ins [A2008-37](#) amdt 1.519**Applications for review**s 43B ins [A2008-37](#) amdt 1.519**Liability**s 44 am [A2004-63](#) s 4**Determination of fee**s 45 am [A2002-49](#) amdt 3.253; [A2003-41](#) amdts 3.390-3.393; [A2004-63](#) s 5, s 6; [A2008-15](#) amdt 2.16; [A2008-37](#) amdt 1.520; pars renum R28 LA mod [SL2009-2](#) mod 5.1 (as ins by [SL2009-51](#) s 9) mod lapsed 22 December 2009 ([SL2009-2](#) mod 5.1 om by [A2009-54](#) amdt 1.6) am [A2009-54](#) amdt 1.41; [A2011-22](#) amdt 1.454; [A2012-21](#) amdt 3.207**Directions about accounts and records**s 49 am [A2003-41](#) amdts 3.394-3.396**Public notice of licence decisions**s 52 am [A2001-44](#) amdt 1.4180, amdt 1.4181; [A2002-49](#) amdt 3.254; [A2012-21](#) amdt 3.207**Public access to licences etc**s 53 am [A2001-44](#) amdt 1.4182**Annual reports—technical and environmental matters**s 54 am [A2011-22](#) amdt 1.454**Energy industry levy**pt 3A hdg ins [A2007-13](#) s 5
note 2 exp 9 July 2008 (s 401 (2))
note 2 ins [A2012-32](#) s 82**Definitions—pt 3A**s 54A ins [A2007-13](#) s 5
def **administrator** ins [A2007-13](#) s 5
def **determined** ins [A2007-13](#) s 5
def **energy industry sector** ins [A2007-13](#) s 5
def **energy utility** ins [A2007-13](#) s 5
def **energy utility service** ins [A2007-13](#) s 5
def **fixed net regulatory cost** ins [A2007-13](#) s 5
def **levy** ins [A2007-13](#) s 5
def **levy year** ins [A2007-13](#) s 5
def **local regulatory cost** ins [A2007-13](#) s 5
def **national regulatory cost** ins [A2007-13](#) s 5

Endnotes

4 Amendment history

def *national regulatory obligations* ins [A2007-13](#) s 5

def *net regulatory cost* ins [A2007-13](#) s 5

def *regulatory cost* ins [A2007-13](#) s 5

def *year* ins [A2007-13](#) s 5

Purpose—pt 3A

s 54B ins [A2007-13](#) s 5

Energy industry levy—imposition

s 54C ins [A2007-13](#) s 5

am [A2012-32](#) s 83, s 84

Energy industry sectors etc

s 54D ins [A2007-13](#) s 5

National regulatory obligations and costs

s 54E ins [A2007-13](#) s 5

Local regulatory costs

s 54F ins [A2007-13](#) s 5

Annual regulatory costs etc

s 54G ins [A2007-13](#) s 5

Further energy sector determinations

s 54H ins [A2007-13](#) s 5

Production of distribution and sales information

s 54I ins [A2007-13](#) s 5

am [A2012-32](#) s 85, s 86

Production of relevant information etc

s 54J ins [A2007-13](#) s 5

Registration of energy utilities

s 54K ins [A2007-13](#) s 5

Offence—failure to register

s 54L ins [A2007-13](#) s 5

(3)-(6) exp 9 July 2008 (s 54L (6) (LA s 88 declaration applies))

Returns under Taxation Administration Act

s 54M ins [A2007-13](#) s 5

am [A2012-32](#) s 87, s 88

Levy administrator

s 54N ins [A2007-13](#) s 5

Previously-licensed NERL retailer

s 54O ins [A2012-32](#) s 89
exp 1 July 2013 (s 54O (4))

Industry codes

pt 4 hdg note ins [A2012-32](#) s 90

Contents

s 55 am [A2001-44](#) amdt 1.4183; [A2012-32](#) s 91, s 92; pars
renum R37 LA

Application

s 56 am [A2012-32](#) s 93, s 94; ss renum R37 LA

NERL retailers—determination of application of code

s 56A ins [A2012-32](#) s 95

Approved codes

s 58 am [A2012-21](#) amdt 3.203

Determined codes

s 59 am [A2003-41](#) amdt 3.396; [A2012-21](#) amdt 3.206

Public consultation

s 60 am [A2003-41](#) amdt 3.454

Variation

s 61 am [A2012-21](#) amdt 3.206

Notification and disallowance of codes etc

s 62 sub [A2001-44](#) amdt 1.4184

Public access

s 63 am [A2001-44](#) amdt 1.4185

Technical regulation

pt 5 hdg note ins [A2012-32](#) s 96

Contents

s 64 am [A2003-41](#) amdt 3.454

NERL retailers and NERL exempt sellers—determination of application of code

s 64A ins [A2012-32](#) s 97

Application of industry code provisions

s 65 am [A2001-44](#) amdt 1.4186

Functions of director-general

s 66 hdg am [A2011-22](#) amdt 1.454

s 66 am [A2011-22](#) amdt 1.454

Endnotes

4 Amendment history

Technical inspectors

s 67 am [A2001-44](#) amdt 1.4187; ss renum R2 LA (see [A2001-44](#) amdt 1.4188); [A2003-41](#) amdt 3.397, amdt 3.398; [A2011-22](#) amdt 1.454; [A2012-21](#) amdt 3.206

Identity cards

s 68 am [A2011-22](#) amdt 1.454

Inspectors—functions

s 69 sub [A2003-41](#) amdt 3.399

Directions about technical codes

s 70 am [A2001-44](#) amdt 1.4189; [A2011-22](#) amdt 1.454; [A2012-21](#) amdt 3.207

Obtaining information and documents

s 72 am [A2011-22](#) amdt 1.454

Self-incrimination etc

s 74 am [A2002-11](#) amdt 2.99; [A2002-51](#) amdt 1.51

NERL retailers and NERL exempt sellers

pt 5A hdg ins [A2012-32](#) s 98

Preliminary

div 5A.1 hdg ins [A2012-32](#) s 98

Meaning of *NERL retailer*

s 75 om [A2002-11](#) amdt 2.100
ins [A2012-32](#) s 98

Meaning of *NERL exempt seller*

s 75A ins [A2012-32](#) s 98

Application of Act to NERL retailers

s 75B ins [A2012-32](#) s 98

Application of Act to NERL exempt sellers

s 75C ins [A2012-32](#) s 98

Inconsistency between Act and NERL

s 75D ins [A2012-32](#) s 98

NERL retailer obligations

div 5A.2 hdg ins [A2012-32](#) s 98

Greenpower

sdiv 5A.2.1 hdg ins [A2012-32](#) s 98

Greenpower obligations—general

s 75E ins [A2012-32](#) s 98

Greenpower obligations—information on bills

s 75F ins [A2012-32](#) s 98

Exemption from greenpower obligationss 75G ins [A2012-32](#) s 98**Enforcement**sdiv 5A.2.2 hdg ins [A2012-32](#) s 98**Offence—contravention of code or s 75E**s 75H ins [A2012-32](#) s 98**Directions about code or s 75E**s 75I ins [A2012-32](#) s 98**Offence—contravention of direction**s 75J ins [A2012-32](#) s 98**Offence—contravention of s 75F**s 75K ins [A2012-32](#) s 98**Obstruction**s 76 om [A2004-15](#) amdt 2.202**Electricity connection service**s 79 sub [A2012-32](#) s 99**Electricity supply service**s 80 om [A2012-32](#) s 100**Gas connection service**s 81 om [A2012-32](#) s 100**Gas supply service**s 82 om [A2012-32](#) s 100**Meaning of *utility service*—div 6.2**s 86A ins [A2012-32](#) s 101**Approval of terms**s 89 am [A2012-21](#) amdt 3.204**Determination of terms**s 90 am [A2012-21](#) amdt 3.206**Notification and application of terms etc**s 91 sub [A2001-44](#) amdt 1.4190**Application—div 6.3**s 94A ins [A2012-32](#) s 102**Passing on the cost of electricity**s 98 om [A2012-32](#) s 103**Passing on the cost of gas**s 99 om [A2012-32](#) s 103

Endnotes

4 Amendment history

Alternative energy—supply utilities not to discriminate

s 102 om [A2012-32](#) s 106

Definitions for pt 7

s 103 def *network operations* am [A2003-41](#) amdt 3.400

Acquisition of land

s 104 am [A2003-41](#) amdt 3.401

Installation of network facilities

s 105 am [A2003-41](#) amdt 3.402, amdt 3.454; [A2005-51](#) amdt 1.23

Maintenance of network facilities

s 106 am [A2003-41](#) amdt 3.403; [A2005-51](#) amdt 1.24

Notice to land-holder

s 109 am [A2003-41](#) amdt 3.454; [A2008-37](#) amdt 1.521

Notice about lopping trees etc on private land

s 110 am [A2003-41](#) amdt 3.454; [A2005-14](#) s 4

Network operations affecting heritage significance

s 110A ins [A2004-57](#) amdt 1.56

Notice to other utilities

s 111 am [A2003-41](#) amdt 3.404, amdt 3.454; [A2005-14](#) ss 5-7

Land to be restored

s 113 am [A2005-14](#) s 8

Authorised people

div 7.4 hdg sub [A2003-41](#) amdt 3.405

Appointment

s 114 am [A2003-41](#) amdt 3.406, amdt 3.407

Identity cards

s 115 am [A2003-41](#) amdt 3.454

Entry to premises—network operations

s 116 am [A2003-41](#) amdt 3.454

Obstruction

s 118 om [A2004-15](#) amdt 2.202

Order to enforce exercise of functions

s 119 hdg am [A2003-41](#) amdt 3.408
s 119 am [A2003-41](#) amdts 3.409-3.411

Clarifying ownership of certain network facilities

s 121 am [A2001-44](#) amdt 1.4191; [A2012-21](#) amdt 3.206

Effect of declaration under s 121

s 122 am [A2001-44](#) amdt 1.4192; ss renum R2 LA (see [A2001-44](#) amdt 1.4193); [A2012-21](#) amdt 3.206

Network protection notices

s 125 am [A2003-41](#) amdt 3.454; [A2005-51](#) amdt 1.25; ss renum R19
LA (see [A2005-51](#) amdt 1.26)

Network protection action affecting heritage significance

s 125A ins [A2004-57](#) amdt 1.57

Unauthorised network connections

s 129 am [A2012-32](#) s 107

Unauthorised abstraction etc of electricity

s 130 am [A2012-32](#) s 108

Unauthorised abstraction etc of gas

s 131 am [A2012-32](#) s 109

Extended meaning of *network*

s 133 sub [A2003-41](#) amdt 3.412

Meaning of *utility*—pt 9

s 134 sub [A2012-32](#) s 110

Appointment of controller

s 135 am [A2003-41](#) amdts 3.413-3.415

Controller's functions

s 136 hdg sub [A2003-41](#) amdt 3.416

s 136 am [A2003-41](#) amdt 3.417, amdt 3.418

Ministerial directions

s 139 am [A2003-41](#) amdt 3.419

Obstructing controller

s 141 om [A2004-15](#) amdt 2.202

Immunity from personal liability

s 142 am [A2003-41](#) amdt 3.419

Claims

s 144 am [A2011-22](#) amdt 1.454

Acceptance or rejection of compensation offer

s 146 am [A2011-22](#) amdt 1.454

Recovery of compensation

s 149 am [A2003-41](#) amdt 3.419

Shortage of essential services

pt 9A hdg ins [A2005-31](#) s 4

Definitions for pt 9A

s 149A ins [A2005-31](#) s 4

def **essential service** ins [A2005-31](#) s 4

def **essential service restriction** ins [A2005-31](#) s 4

Endnotes

4 Amendment history

Restriction of utility service

s 149B ins [A2005-31](#) s 4

Powers in relation to premises

s 149C ins [A2005-31](#) s 4

Production of identity card

s 149D ins [A2005-31](#) s 4

Enforcement

pt 10 hdg note ins [A2012-32](#) s 111

Definitions for pt 10

s 150 hdg sub [A2001-56](#) amdt 3.864

s 150 def **connected** ins [A2001-56](#) amdt 3.865

def **offence** ins [A2001-56](#) amdt 3.865

Things connected with offences

s 151 om [A2001-56](#) amdt 3.866

Appointment

s 152 am [A2003-41](#) amdts 3.420-3.422; [A2011-22](#) amdt 1.454

Powers on entry to premises

s 159 am [A2003-41](#) amdt 3.454

Powers to enter and inspect premises

s 164 am [A2011-22](#) amdt 1.454

Authorised people for utility

div 10.4 hdg sub [A2003-41](#) amdt 3.423

Self-incrimination etc

s 166 am [A2002-11](#) amdt 2.101; [A2002-51](#) amdt 1.52

Certain causes of action against customer

pt 11 hdg sub [A2008-22](#) amdt 1.58; [A2008-37](#) amdt 1.522

note ins [A2012-32](#) s 112

Establishment and functions

div 11.1 hdg om [A2008-37](#) amdt 1.522

Constitution

div 11.2 hdg om [A2008-37](#) amdt 1.522

Organisation of council

div 11.3 hdg om [A2008-37](#) amdt 1.522

Proceedings in Magistrates Court—amounts over \$10 000

s 167 om [A2001-11](#) amdt 2.102

ins [A2008-37](#) amdt 1.522

Civil dispute applications to ACAT

s 168 om [A2004-15](#) amdt 2.202
ins [A2008-37](#) amdt 1.522

Complaints to ACAT about utilities

pt 12 hdg sub [A2008-37](#) amdt 1.522

Preliminary

div 12.1 hdg sub [A2008-37](#) amdt 1.522

Definitions—pt 12

s 169 am [A2008-22](#) amdt 1.59
sub [A2008-37](#) amdt 1.522
def complainant ins [A2008-37](#) amdt 1.522
def complaint ins [A2008-37](#) amdt 1.522
def customer debt ins [A2008-37](#) amdt 1.522
def registrar ins [A2008-37](#) amdt 1.522
def respondent ins [A2008-37](#) amdt 1.522
def utility ins [A2008-37](#) amdt 1.522
def withdrawal ins [A2008-37](#) amdt 1.522

Application—pt 12

s 170 am [A2001-56](#) amdts 3.867-3.869; [A2003-41](#) amdt 3.424,
amdt 3.454
sub [A2008-37](#) amdt 1.522
am [A2012-32](#) s 113

Principles—pt 12

s 171 am [A2007-22](#) amdt 1.52
sub [A2008-37](#) amdt 1.522

Applications to ACAT

div 12.2 hdg sub [A2008-37](#) amdt 1.522

ACAT applications

s 172 am [A2003-41](#) amdt 3.425
sub [A2008-37](#) amdt 1.522
table 172 am [A2012-32](#) ss 114-116; items renum R37 LA

Help with applications about failure to provide, or withdrawal of, utility services

s 173 sub [A2004-9](#) amdt 1.48; [A2008-37](#) amdt 1.522

Advising Minister etc about systemic problems

s 174 am [A2001-56](#) amdt 3.870, amdt 3.871; [A2003-41](#)
amdts 3.426-3.428
sub [A2008-37](#) amdt 1.522

Preliminary inquiries

div 12.3 hdg sub [A2008-37](#) amdt 1.522

Endnotes

4 Amendment history

Preliminary inquiries—registrar

s 175 am [A2001-56](#) amdt 3.872, amdt 3.873; [A2003-41](#) amdt 3.429,
amdt 3.430
sub [A2008-37](#) amdt 1.522

Dismissal of complaints

div 12.4 hdg sub [A2008-37](#) amdt 1.522

Dismissal of complaints about utilities

s 176 om [A2001-56](#) amdt 3.874
ins [A2008-37](#) amdt 1.522

Powers and decisions of ACAT

div 12.5 hdg ins [A2008-37](#) amdt 1.522

Complainant's records

s 177 am [A2001-56](#) amdt 3.875
sub [A2008-37](#) amdt 1.522

ACAT decisions

s 178 sub [A2003-41](#) amdt 3.431; [A2008-37](#) amdt 1.522

Continuity of utility services—nonpayment of customer debt

s 179 am [A2003-41](#) amdt 3.432
sub [A2008-37](#) amdt 1.522
am [A2012-32](#) s 117

Discharge of customer debt

s 180 sub [A2003-41](#) amdt 3.433; [A2008-28](#) amdt 3.170; [A2008-37](#)
amdt 1.522

Payment for loss or damages

s 181 am [A2003-41](#) amdt 3.434
sub [A2008-37](#) amdt 1.522

Reviewable capital contribution charges

s 182 hdg am [A2003-41](#) amdt 3.435
s 182 am [A2003-41](#) amdt 3.436
sub [A2008-37](#) amdt 1.522

Reimbursement of utilities for customer debts discharged

s 183 sub [A2008-37](#) amdt 1.522

Confidential information

div 12.6 hdg ins [A2008-37](#) amdt 1.522

Protection of confidential information

s 184 sub [A2008-37](#) amdt 1.522

Complaints to which pt 12 applies

s 185 om [A2008-37](#) amdt 1.522

Complaints to council

s 186 om [A2008-37](#) amdt 1.522

Preliminary inquiries

s 187 om [A2008-37](#) amdt 1.522

Withdrawal of complaint

s 188 om [A2008-37](#) amdt 1.522

Dismissal of complaint

s 189 am [A2003-41](#) amdt 3.437
om [A2008-37](#) amdt 1.522

Notice to utility

s 190 om [A2008-37](#) amdt 1.522

Procedure

s 191 am [A2003-41](#) amdt 3.438
om [A2008-37](#) amdt 1.522

Interim directions

s 192 om [A2008-37](#) amdt 1.522

Participation by telephone etc

s 193 om [A2008-37](#) amdt 1.522

Hearings

s 194 om [A2008-37](#) amdt 1.522

Appearance and representation

s 195 om [A2008-37](#) amdt 1.522

Taking evidence

s 196 om [A2008-37](#) amdt 1.522

Refusing to take oath or make affirmation

s 197 om [A2008-37](#) amdt 1.522

Obtaining information and documents

s 198 am [A2003-41](#) amdt 3.439
om [A2008-37](#) amdt 1.522

Contravention of requirement under s 198

s 199 om [A2008-37](#) amdt 1.522

Witnesses to answer questions etc

s 200 om [A2008-37](#) amdt 1.522

Selfincrimination etc

s 201 am [A2002-11](#) amdt 2.103; [A2002-51](#) amdt 1.53
om [A2008-37](#) amdt 1.522

Legal professional privilege

s 202 om [A2002-11](#) amdt 2.104

Endnotes

4 Amendment history

Restrictions on publication

s 203 am [A2001-44](#) amdt 1.4194; [A2003-41](#) amdt 3.440
om [A2008-37](#) amdt 1.522

Contravention of direction about publication

s 204 om [A2008-37](#) amdt 1.522

Reference of question of law to Supreme Court

s 205 am [A2003-41](#) amdt 3.441
om [A2008-37](#) amdt 1.522

Decisions of council

s 206 am [A2007-22](#) amdt 1.53, amdt 1.54
om [A2008-37](#) amdt 1.522

Continuity of utility services—nonpayment of customer debt

s 207 am [A2003-41](#) amdt 3.442
om [A2008-37](#) amdt 1.522

Discharge of customer debt

s 208 om [A2008-37](#) amdt 1.522

Payment for loss or damage

s 209 am [A2003-41](#) amdt 3.443
om [A2008-37](#) amdt 1.522

Reviewable capital contribution charges

s 209A ins [A2007-22](#) amdt 1.55
om [A2008-37](#) amdt 1.522

Notice of decision

s 210 am [A2004-60](#) amdt 1.686
om [A2008-37](#) amdt 1.522

Decisions by agreement

s 211 om [A2008-37](#) amdt 1.522

Records

s 212 om [A2008-37](#) amdt 1.522

Correction of errors

s 213 om [A2008-37](#) amdt 1.522

Protection of lawyers and witnesses

s 214 om [A2008-37](#) amdt 1.522

Obstructing council etc

s 215 om [A2008-37](#) amdt 1.522

Providing false information

s 216 om [A2004-15](#) amdt 2.202

Providing false or misleading documents

s 217 om [A2004-15](#) amdt 2.202

Reimbursement of utilities for customer debts discharged

s 218 om [A2008-37](#) amdt 1.522

Purposes of pt 13

s 219 am [A2003-41](#) amdt 3.444; [A2012-32](#) s 118

Direction by Minister

s 221 am [A2003-41](#) amdt 3.445, amdt 3.454

Streetlighting and stormwater

pt 14 hdg orig pt 14 hdg renum as pt 15 hdg
ins [A2005-14](#) s 9

General

div 14.1 hdg ins [A2005-14](#) s 9

Definitions for pt 14

s 225A renum as s 226

Stormwater network

s 225B renum as s 227

Stormwater network code and boundary

s 225C renum as s 228

Streetlight network

s 225D renum as s 229

Streetlight network code

s 225E renum as s 230

Installation of territory network facilities

s 225F renum as s 231

Maintenance of territory network facilities

s 225G renum as s 232

National land

s 225H renum as s 233

Damage etc to be minimised

s 225I renum as s 234

Notice to land-holder

s 225J renum as s 235

Notice about lopping trees etc on private land

s 225K renum as s 236

Territory network operations affecting heritage significance

s 225L renum as s 237

Notice to utilities

s 225M renum as s 238

Endnotes

4 Amendment history

Removal of Territory's property and waste

s 225N renum as s 239

Land to be restored

s 225O renum as s 240

Compensation

s 225P renum as s 241

Territory service authorised people

s 225Q renum as s 242

Identity cards

s 225R renum as s 243

Entry to premises—territory network operations

s 225S renum as s 244

Entry to premises—inspection of connections etc

s 225T renum as s 245

Order to enforce exercise of functions

s 225U renum as s 246

Ownership of territory network facilities

s 225V renum as s 247

Interference with territory networks

s 225W renum as s 248

Territory network protection notices

s 225X renum as s 249

Territory network protection action affecting heritage significance

s 225Y renum as s 250

Definitions for pt 14

s 226 orig s 226 renum as s 251
(prev s 225A) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)
def *installation* ins [A2005-14](#) s 9
def *interference* ins [A2005-14](#) s 9
def *stormwater drainage* ins [A2005-14](#) s 9
def *stormwater network* ins [A2005-14](#) s 9
def *stormwater network boundary* ins [A2005-14](#) s 9
def *stormwater network code* ins [A2005-14](#) s 9
def *streetlighting* ins [A2005-14](#) s 9
def *streetlight network* ins [A2005-14](#) s 9
def *streetlight network code* ins [A2005-14](#) s 9
def *territory network* ins [A2005-14](#) s 9
def *territory network facility* ins [A2005-14](#) s 9
def *territory network operations* ins [A2005-14](#) s 9

def **territory network protection notice** ins [A2005-14](#) s 9
def **territory service** ins [A2005-14](#) s 9
def **territory service authorised person** ins [A2005-14](#) s 9

Stormwater network

s 227 orig s 227 renum as s 252
(prev s 225B) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Stormwater network code and boundary

s 228 orig s 228 renum as s 253
(prev s 225C) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)
am [A2012-21](#) amdt 3.206

Streetlight network

s 229 orig s 229 renum as s 254
(prev s 225D) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Approved forms—ICRC

s 229A renum as s 255

Approved forms—Minister

s 229B renum as s 256

Streetlight network code

s 230 orig s 230 renum as s 257
(prev s 225E) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)
am [A2012-21](#) amdt 3.206

Territory network operations

div 14.2 hdg ins [A2005-14](#) s 9

General powers

sdiv 14.2.1 hdg ins [A2005-14](#) s 9

Installation of territory network facilities

s 231 orig s 231 renum as s 258
(prev s 225F) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)
am [A2005-51](#) amdt 1.27

Maintenance of territory network facilities

s 232 orig s 232 renum as s 259
(prev s 225G) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)
am [A2005-51](#) amdt 1.28

Endnotes

4 Amendment history

National land

s 233 orig s 233 renum as s 260
(prev s 225H) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Performance of territory network operations

sdiv 14.2.2 hdg ins [A2005-14](#) s 9

Damage etc to be minimised

s 234 orig s 234 renum as s 261
(prev s 225I) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Notice to land-holder

s 235 orig s 235 om [A2001-44](#) amdt 1.4201
ins [A2004-63](#) s 7
exp 1 July 2005 (s 235 (2))
(prev s 225J) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Notice about lopping trees etc on private land

s 236 orig s 236 om [A2001-44](#) amdt 1.4201
(prev s 225K) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Territory network operations affecting heritage significance

s 237 orig s 237 exp 1 January 2002 (s 241)
(prev s 225L) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Notice to utilities

s 238 orig s 238 om R1 LRA
(prev s 225M) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Removal of Territory's property and waste

s 239 orig s 239 exp 1 January 2002 (s 241)
(prev s 225N) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Land to be restored

s 240 orig s 240 exp 1 January 2002 (s 241)
(prev s 225O) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Compensation

s 241 orig s 241 exp 1 January 2002 (s 241)
(prev s 225P) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Authorised people and entry to premises

sdiv 14.2.3 hdg ins [A2005-14](#) s 9

Territory service authorised people

s 242 orig s 242 exp 20 June 2002 (s 247)
(prev s 225Q) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)
am [A2011-22](#) amdt 1.454

Identity cards

s 243 orig s 243 exp 21 June 2001 (IA s 43 (3))
(prev s 225R) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)
am [A2011-22](#) amdt 1.454

Entry to premises—territory network operations

s 244 orig s 244 exp 20 June 2002 (s 247)
(prev s 225S) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Entry to premises—inspection of connections etc

s 245 orig s 245 exp 20 June 2002 (s 247)
(prev s 225T) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Miscellaneous

sdiv 14.2.4 hdg ins [A2005-14](#) s 9

Order to enforce exercise of functions

s 246 orig s 246 exp 20 June 2002 (s 247)
(prev s 225U) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Ownership of territory network facilities

s 247 orig s 247 exp 20 June 2002 (s 247)
(prev s 225V) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Protection of territory networks

div 14.3 hdg ins [A2005-14](#) s 9

Interference with territory networks

s 248 orig s 248 om [A2001-56](#) amdt 3.877
(prev s 225W) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Territory network protection notices

s 249 orig s 249 exp 21 June 2001 (IA s 43 (3))
(prev s 225X) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)
am [A2005-51](#) amdt 1.29; ss renum R19 LA (see [A2005-51](#)
amdt 1.30)

Endnotes

4 Amendment history

Territory network protection action affecting heritage significance

s 250 orig s 250 (1) exp 2 June 2001 (IA s 43 (3))
(2)–(6) exp 1 July 2001 (s 253)
(prev s 225Y) ins [A2005-14](#) s 9
renum R17 LA (see [A2005-14](#) s 16)

Vicarious liability

pt 15 hdg orig pt 15 hdg renum as pt 16 hdg
(prev pt 14 hdg) renum [A2005-14](#) s 10

References in pt 15 to *proceeding under this Act*

s 251 hdg (prev s 226 hdg) sub [A2001-56](#) amdt 3.876; [A2005-14](#) s 11
s 251 orig s 251 exp 1 July 2001 (s 253)
(prev s 226) am [A2001-44](#) amdt 1.4195, amdt 1.4196;
[A2002-11](#) amdt 2.105; [A2002-51](#) amdt 1.54
renum R17 LA (see [A2005-14](#) s 16)

Liability of corporations

s 252 orig s 252 exp 1 July 2001 (s 253)
(prev s 227) renum R17 LA (see [A2005-14](#) s 16)

Liability of people other than corporations

s 253 hdg (prev s 228 hdg) am R8 LA
s 253 orig s 253 am [A2001-56](#) amdt 3.878
exp 1 July 2001 (s 253)
(prev s 228) am [A2002-11](#) amdt 2.106
renum R17 LA (see [A2005-14](#) s 16)

Miscellaneous

pt 16 hdg orig pt 16 hdg om R5 LA
(prev pt 15 hdg) renum [A2005-14](#) s 12

First codes

div 16.1 hdg om [A2001-44](#) amdt 1.4201

Electricity Supply Acts, repeals and savings

div 16.2 hdg exp 1 January 2002 (s 241)

Gas Supply Act, repeals and savings

div 16.3 hdg exp 20 June 2002 (s 247)

Miscellaneous

div 16.4 hdg exp 1 July 2001 (s 253)

Determination of fees

s 254 (prev s 229) sub [A2001-44](#) amdt 1.4197
am [A2004-60](#) amdt 1.687
sub [A2005-14](#) s 13
renum R17 LA (see [A2005-14](#) s 16)
am [A2008-22](#) amdt 1.60; [A2008-37](#) amdt 1.523; [A2012-21](#)
amdt 3.206

Approved forms—ICRC

s 255 (prev s 229A) ins [A2001-44](#) amdt 1.4197
am [A2003-41](#) amdt 3.446
renum R17 LA (see [A2005-14](#) s 16)

Approved forms—Minister

s 256 (prev s 229B) ins [A2001-44](#) amdt 1.4197
am [A2003-41](#) amdt 3.446
renum R17 LA (see [A2005-14](#) s 16)

Evidentiary certificate—Government programs

s 257 (prev s 230) renum R17 LA (see [A2005-14](#) s 16)

Evidence of authorisation by utility

s 258 (prev s 231) renum R17 LA (see [A2005-14](#) s 16)

Former water and sewerage rates schemes—extended operation

s 259 (prev s 232) renum R17 LA (see [A2005-14](#) s 16)

Compensation—safety net

s 260 (prev s 233) am [A2005-14](#) s 14
renum R17 LA (see [A2005-14](#) s 16)

Reminder notices and disconnection warning notices—ACAT direction

s 260A ins [A2012-32](#) s 119

Regulation-making power

s 261 hdg (prev s 234 hdg) sub [A2001-44](#) amdt 1.4198
s 261 (prev s 234) am [A2001-44](#) amdt 1.4199, amdt 1.4200;
[A2005-14](#) s 15
renum R17 LA (see [A2005-14](#) s 16)

Transitional

pt 17 hdg ins [A2007-13](#) s 6
exp 9 July 2008 (s 401 (1))

Application of pt 3A (Energy industry levy)

s 400 ins [A2007-13](#) s 6
exp 9 July 2008 (s 401 (1))

Expiry—pt 17

s 401 ins [A2007-13](#) s 6
exp 9 July 2008 (s 401 (1))

Endnotes

4 Amendment history

Transitional—National Energy Retail Law

pt 18 hdg ins [A2012-32](#) s 120
exp 1 July 2017 (s 407 (1))

Meaning of *commencement day*—pt 18

s 402 ins [A2012-32](#) s 120
exp 1 July 2017 (s 407 (1))

Licences

s 403 ins [A2012-32](#) s 120
exp 1 July 2017 (s 407 (1))

Existing retailer of last resort

s 404 ins [A2012-32](#) s 120
exp 1 July 2017 (s 407 (1))

Certain electricity services and gas services

s 405 ins [A2012-32](#) s 120
exp 31 December 2013 (s 407 (2))

Transitional regulations

s 406 ins [A2012-32](#) s 120
exp 1 July 2017 (s 407 (1))

Expiry—pt 18

s 407 ins [A2012-32](#) s 120
exp 1 July 2017 (s 407 (1))

Reviewable decisions

sch 1 ins [A2008-37](#) amdt 1.524

Dictionary

dict am [A2003-41](#) amdt 3.447; [A2007-13](#) s 7; [A2008-15](#) amdt 2.17;
[A2008-37](#) amdts 1.525-1.527; [A2009-20](#) amdt 3.214;
[A2010-54](#) amdt 3.61; [A2011-22](#) amdt 1.455; [A2012-21](#)
amdt 3.205; [A2012-32](#) s 121
def **administrator** ins [A2007-13](#) s 8
def **annual licence fee** am [A2004-63](#) s 8
def **approved meter** ins [A2001-56](#) amdt 3.879
def **authorised person** sub [A2001-56](#) amdt 3.880
def **complainant** ins [A2008-37](#) amdt 1.528
def **complaint** sub [A2008-37](#) amdt 1.528
def **connected** ins [A2001-56](#) amdt 3.881
def **council** sub [A2008-22](#) amdt 1.61
om [A2008-37](#) amdt 1.529
def **customer debt** ins [A2001-56](#) amdt 3.881
sub [A2008-37](#) amdt 1.530
def **daily newspaper** om [A2009-20](#) amdt 3.215
def **data storage device** am [A2003-41](#) amdt 3.448
def **determined** ins [A2007-13](#) s 8
def **determined fee** om [A2001-44](#) amdt 1.4202

def **electricity connection service** sub [A2012-32](#) s 122
 def **electricity supplier** om [A2012-32](#) s 123
 def **energy industry sector** ins [A2007-13](#) s 8
 def **energy utility** ins [A2007-13](#) s 8
 def **energy utility service** ins [A2007-13](#) s 8
 def **essential service** ins [A2005-31](#) s 5
 def **essential service restriction** ins [A2005-31](#) s 5
 def **fixed net regulatory cost** ins [A2007-13](#) s 8
 def **function** om [A2001-56](#) amdt 3.882
 def **gas connection service** sub [A2012-32](#) s 124
 def **gas distribution network** ins [A2001-56](#) amdt 3.883
 def **gas supplier** om [A2012-32](#) s 125
 def **gas transmission network** ins [A2001-56](#) amdt 3.883
 def **ICRC inspector** sub [A2001-56](#) amdt 3.884
 def **industry code** sub [A2001-44](#) amdt 1.4203
 def **installation** ins [A2001-56](#) amdt 3.885
 sub [A2003-41](#) amdt 3.449; [A2005-14](#) s 17
 def **interference** ins [A2001-56](#) amdt 3.885
 sub [A2003-41](#) amdt 3.449; [A2005-14](#) s 17
 def **levy** ins [A2007-13](#) s 8
 def **levy year** ins [A2007-13](#) s 8
 def **local regulatory cost** ins [A2007-13](#) s 8
 def **national electricity rules** ins [A2012-32](#) s 126
 def **national energy retail rules** ins [A2012-32](#) s 126
 def **national gas rules** ins [A2012-32](#) s 126
 def **national regulatory cost** ins [A2007-13](#) s 8
 def **national regulatory obligations** ins [A2007-13](#) s 8
 def **NERL exempt seller** ins [A2012-32](#) s 126
 def **NERL retailer** ins [A2012-32](#) s 126
 def **net regulatory cost** ins [A2007-13](#) s 8
 def **network** sub [A2001-56](#) amdt 3.886
 def **network operations** sub [A2001-56](#) amdt 3.886
 def **occupier** sub [A2001-56](#) amdt 3.886
 def **offence** ins [A2001-56](#) amdt 3.887
 def **owner** am [A2003-41](#) amdt 3.454; [A2004-42](#) amdt 3.87
 def **party** ins [A2001-56](#) amdt 3.887
 sub [A2003-41](#) amdt 3.450
 om [A2008-37](#) amdt 1.531
 def **personal information** sub [A2001-56](#) amdt 3.888
 def **proceeding under this Act** ins [A2001-56](#) amdt 3.889
 sub [A2005-14](#) s 18
 def **registrar** ins [A2001-56](#) amdt 3.889
 sub [A2008-37](#) amdt 1.532
 def **regulatory cost** ins [A2007-13](#) s 8
 def **related law** sub [A2001-44](#) amdt 1.4204
 def **respondent** ins [A2001-56](#) amdt 3.889
 sub [A2003-41](#) amdt 3.451; [A2008-37](#) amdt 1.533

Endnotes

4 Amendment history

def **reviewable decision** ins [A2008-37](#) amdt 1.534
def **stormwater drainage** ins [A2005-14](#) s 19
def **stormwater network** ins [A2005-14](#) s 19
def **stormwater network boundary** ins [A2005-14](#) s 19
def **stormwater network code** ins [A2005-14](#) s 19
def **streetlighting** ins [A2005-14](#) s 19
def **streetlight network** ins [A2005-14](#) s 19
def **streetlight network code** ins [A2005-14](#) s 19
def **technical code** sub [A2001-44](#) amdt 1.4205
def **technical inspector** sub [A2001-56](#) amdt 3.890
def **territory network** ins [A2005-14](#) s 19
def **territory network facility** ins [A2005-14](#) s 19
def **territory network operations** ins [A2005-14](#) s 19
def **territory network protection notice** ins [A2005-14](#) s 19
def **territory service** ins [A2005-14](#) s 19
def **territory service authorised person** ins [A2005-14](#) s 19
def **utility** sub [A2001-56](#) amdt 3.890; [A2008-37](#) amdt 1.535
def **utility service** am [A2003-41](#) amdt 3.452
sub [A2012-32](#) s 127
def **withdrawal** ins [A2001-56](#) amdt 3.891
sub [A2003-41](#) amdt 3.453; [A2008-37](#) amdt 1.536
def **year** ins [A2007-13](#) s 8

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	not amended	24 May 2001
2	A2001-56	5 September 2001
3	A2001-56	10 January 2002
4	A2002-11	29 May 2002
5	A2002-11	21 June 2002
6	A2002-51	1 January 2003
7	A2002-51	17 January 2003
8	A2003-41	9 October 2003
9	A2004-15	9 April 2004
10	A2004-15	13 April 2004
11	A2004-42	25 August 2004
12	A2004-63	3 September 2004
13	A2004-63	10 January 2005
14	A2004-63	9 March 2004
15	A2005-31	30 June 2005
16	A2005-31	2 July 2005
17*	A2005-31	24 September 2005
18	A2005-62	11 January 2006
19	A2005-62	29 March 2006
20	A2007-19	9 July 2007
21	A2007-19	1 August 2007
22	A2007-22	6 September 2007

Endnotes

6 Renumbered provisions

Republication No	Amendments to	Republication date
23	A2007-25	31 March 2008
24	A2008-15	1 July 2008
25	A2008-22	10 July 2008
26	A2008-22	29 July 2008
27	A2008-28	26 August 2008
28	A2008-37	2 February 2009
29	A2009-28	22 September 2009
30	A2009-28	1 October 2009
31	SL2009-51	31 October 2009
32	A2009-54	22 December 2009
33	A2010-54	1 January 2011
34	A2011-22	1 July 2011
35	A2011-55	1 January 2012
36	A2012-21	5 June 2012

6 Renumbered provisions

This Act was renumbered under the *Legislation Act 2001*, in R17 (see *Utilities Amendment Act 2005* A2005-14 s 16). Details of renumbered provisions are shown in endnote 4 (Amendment history). For a table showing the renumbered provisions, see R17.

© Australian Capital Territory 2012