



Australian Capital Territory

National Energy Retail Law (ACT) Act 2012

A2012-31

Contents

		Page
Part 1	Preliminary	
1	Name of Act	2
2	Commencement	2
3	Dictionary	2
4	Terms used in National Energy Retail Law	3
5	Notes	3
Part 2	Adoption of National Energy Retail Law	
6	Application of National Energy Retail Law	4

J2010-463

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	Page	
7	Application of regulations under National Energy Retail Law	4
8	Interpretation of certain terms	4
9	Exclusion of legislation of ACT and SA	5
Part 3	Related matters	
10	Conferral of functions on Commonwealth bodies to act in ACT	6
11	Extension of reading-down provision	6
Part 4	Validation of instruments and decisions of AER—energy retail laws	
12	Validation of instruments and decisions made by AER	7
13	AER—authorisation of preparatory steps	9
Part 5	Implementation of national law in ACT	
Division 5.1	Price regulation	
14	Standing offer prices to be consistent with price directions for small customers	10
Division 5.2	Border area arrangements	
15	Definitions—div 5.2	10
16	Application—div 5.2	11
17	NSW energy retail law applies to certain people and areas instead of local energy retail law	12
Division 5.3	Other matters	
18	Interest charges	13
19	Small market offer customers	13
20	Small compensation claims regime	14
Part 6	Miscellaneous	
21	Provision of information by ICRC	15
22	Extension of AER functions and powers	16
23	Regulation-making power	17
24	Local instruments for National Energy Retail Law (ACT)	17

	Page
Part 10	Transitional
Division 10.1	Interpretation
50	Definitions—pt 10 19
Division 10.2	Customer retail contracts
51	Standard customer contracts replaced by standard retail contracts 19
52	Negotiated customer contracts to become market retail contracts 20
53	Certain rights and liabilities under or in relation to s 51 and s 52 contracts—general 21
Division 10.3	Customer connection contracts
54	Standard customer contracts replaced by standard connection contracts—electricity 22
55	Negotiated customer contracts to become negotiated connection contracts—electricity 23
Division 10.4	Applications for connection and supply
56	Application for electricity connection service under Utilities Act 24
57	Application for supply of electricity or gas under Utilities Act 24
Division 10.5	Customer hardship
58	Customer taken to be hardship customer 25
Division 10.6	Complaints
59	Complaints to utilities 25
60	Complaints to ACAT 26
Division 10.7	Contraventions of licence conditions under Utilities Act
61	Contravention of licence condition by utility 26
Division 10.8	Exempt sellers
62	Exempt sellers—conditions 27
Division 10.9	Miscellaneous
63	Transitional regulations 28
64	Expiry—pt 10 28
Dictionary	29



Australian Capital Territory

National Energy Retail Law (ACT) Act 2012

A2012-31

An Act to establish a national energy customer framework for the regulation of the retail supply of energy to customers, to make provision for the relationship between the distributors of energy and the consumers of energy, and for other purposes

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

Part 1 Preliminary

1 Name of Act

This Act is the *National Energy Retail Law (ACT) Act 2012*.

2 Commencement

- (1) This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

- (2) The Legislation Act, section 79 (Automatic commencement of postponed law) does not apply to this Act.

3 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 '*local energy retail law*, for division 5.2 (Border area arrangements)—see section 15.' means that the term '*local energy retail law*' is defined in that section for division 5.2.

Note 2 A definition in the dictionary (including a signpost definition) 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)).

4 Terms used in National Energy Retail Law

Terms used in this Act and also in the National Energy Retail Law have the same meanings in this Act as they have in that Law.

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

5 Notes

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

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

Part 2 Adoption of National Energy Retail Law

6 Application of National Energy Retail Law

- (1) The National Energy Retail Law set out in the schedule to the South Australian Act, as amended from time to time—
 - (a) applies as a territory law; and
 - (b) as so applying may be referred to as the *National Energy Retail Law (ACT)*; and
 - (c) so applies as if it were part of this Act.

Note The South Australian Act is accessible at www.legislation.sa.gov.au.

- (2) This section is subject to part 5 (Implementation of national law in ACT).

7 Application of regulations under National Energy Retail Law

The regulations made under the National Energy Retail Law, as amended from time to time—

- (a) apply as a regulation in force for the *National Energy Retail Law (ACT)*; and
- (b) as so applying may be referred to as the *National Energy Retail Regulation (ACT)*.

8 Interpretation of certain terms

In the *National Energy Retail Law (ACT)* and the *National Energy Retail Regulation (ACT)*:

National Energy Retail Law or *this Law* means the *National Energy Retail Law (ACT)*.

the jurisdiction or *this jurisdiction* means the ACT.

9 Exclusion of legislation of ACT and SA

- (1) The Legislation Act does not apply to the *National Energy Retail Law (ACT)*.

Note 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 s (2) and Legislation Act, s 104).

- (2) However, the following provisions of the Legislation Act apply to the *National Energy Retail Law (ACT)* as if that Law were an Act:
- (a) section 104 (References to laws include references to instruments under laws);
 - (b) part 19.4 (Delegations);
 - (c) section 254A (Delegation by Minister).

Note 1 The Legislation Act, s 104 provides that a reference to an Act includes a reference to the statutory instruments made or in force under the Act.

Note 2 The Legislation Act, s 254A provides that a Minister may delegate the Minister's functions under an Act to anyone else. Pt 19.4 deals with the making of delegations and the exercise of delegated functions.

- (3) To remove any doubt, subsection (1) does not limit the application of the Legislation Act to this Act.
- (4) The Legislation Act, chapter 5 (Regulatory impact statements for subordinate laws and disallowable instruments) does not apply to an instrument mentioned in section 20 (Small compensation claims regime), section 23 (Regulation-making power) or section 24 (Local instruments for National Energy Retail Law (ACT)).
- (5) The *Acts Interpretation Act 1915* (SA), the *Subordinate Legislation Act 1978* (SA) and other Acts of South Australia do not apply to the National Energy Retail Law (ACT).

Part 3 Related matters

10 Conferral of functions on Commonwealth bodies to act in ACT

- (1) A Commonwealth body has power to do acts in, or in relation to, the ACT in the exercise of a function expressed to be conferred on the body by the national energy retail legislation of another participating jurisdiction.

Note **Exercise** a function includes perform the function (see Legislation Act, dict, pt 1), and **function** includes power (see Legislation Act, dict, pt 1).

- (2) In this section:

Commonwealth body means—

- (a) the AER; or
- (b) the Tribunal.

11 Extension of reading-down provision

- (1) The *National Energy Retail Law (ACT)*, section 320 (Law and the Rules to be construed not to exceed legislative power of Legislature) has effect in relation to the operation of a provision of this Act as if the provision were part of that Law.
- (2) Subsection (1) does not limit the effect that a provision would validly have apart from the subsection.

Part 4

Validation of instruments and decisions of AER—energy retail laws

12 Validation of instruments and decisions made by AER

(1) This section applies to an instrument or decision made by the AER if—

(a) the instrument or decision was made—

(i) at or after the time that the South Australian Act was enacted; but

(ii) before the time (the *application time*) that the National Energy Retail Law first started to apply under this Act as a territory law; and

(b) had the National Energy Retail Law started so to apply the making of the instrument or decision would have been authorised by 1 of the following laws (the *authorising law*):

(i) the *National Energy Retail Law (ACT)*;

Note 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)* (see s 9 (2) and Legislation Act, s 104).

(ii) this Act; and

Note The Legislation Act, s 104 provides that a reference to an Act includes a reference to the statutory instruments made or in force under the Act.

- (c) in a case in which the making of the instrument or decision would be so authorised subject to the satisfaction of any conditions or other requirements (for example, consultation or publication requirements)—the AER has done anything that would, if the National Energy Retail Law had started so to apply, be required under the authorising law for the instrument or decision to be so authorised.

Example—instrument

guidelines

Examples—decisions

- 1 appointments
- 2 determinations
- 3 approvals

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 the authorising law, the instrument or decision—
- (a) is taken to be valid; and
 - (b) has effect from the application time—
 - (i) as varied, and unless revoked, by any other instrument or decision to which this section applies; and
 - (ii) subject to that law as so applying.

13 AER—authorisation of preparatory steps

- (1) This section applies if the AER—
- (a) is required to do something (a *preparatory step*) before making a decision or instrument under 1 of the following laws (the *authorising law*):
 - (i) the *National Energy Retail Law (ACT)*;
 - Note* 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)* (see s 9 (2) and Legislation Act, s 104).
 - (ii) this Act; and
 - Note* The Legislation Act, s 104 provides that a reference to an Act includes a reference to the statutory instruments made or in force under the Act.
 - (b) takes the preparatory step—
 - (i) at or after the time that the South Australian Act was enacted; but
 - (ii) before the time that the National Energy Retail Law first started to apply under this Act as a territory law.
- (2) For the authorising law, the AER is taken to have complied with the requirement to take the preparatory step.

Part 5 Implementation of national law in ACT

Division 5.1 Price regulation

14 Standing offer prices to be consistent with price directions for small customers

- (1) This section applies if a price direction about the pricing of the sale and supply of energy to small customers (however described) that applies to a retailer is in force.

Note The National Energy Retail Law, s 2 (2) provides that a reference to the sale and supply of energy includes a reference to the sale or supply of energy (see also s 4).

- (2) The retailer must ensure that the retailer's standing offer prices for or in connection with the sale and supply of the energy to the customers, including any variation of the prices, are consistent with the price direction.

- (3) In this section:

price direction means a price direction made by the ICRC under the *Independent Competition and Regulatory Commission Act 1997*.

Division 5.2 Border area arrangements

15 Definitions—div 5.2

In this division:

local energy retail law means—

- (a) the national energy retail legislation of the ACT; and
(b) the amendments of the National Electricity Law (in its application in the ACT) set out in the *National Electricity (South Australia) Act 1996* (SA) made by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA); and

- (c) the amendments of the National Gas Law (in its application in the ACT) set out in the *National Gas (South Australia) Act 2008* (SA) made by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA).

NSW energy retail law means—

- (a) the national energy retail legislation of New South Wales; and
- (b) the amendments of the National Electricity Law (in its application in NSW) set out in the *National Electricity (South Australia) Act 1996* (SA) made by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA); and
- (c) the amendments of the National Gas Law (in its application in NSW) set out in the *National Gas (South Australia) Act 2008* (SA) made by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA).

prescribed local area retailer means a retailer who is a local area retailer for NSW prescribed by regulation as the local area retailer for a geographic area of the ACT mentioned in section 17 (2) (b).

prescribed local energy retail law means a local energy retail law, or a provision of a local energy retail law, prescribed by regulation.

prescribed NSW energy retail law means the NSW energy retail law, or a provision of the NSW energy retail law, prescribed by regulation.

16 Application—div 5.2

This division applies despite anything to the contrary in this Act or the *National Energy Retail Law (ACT)*.

17 NSW energy retail law applies to certain people and areas instead of local energy retail law

- (1) A prescribed local energy retail law does not apply to—
- (a) a person prescribed by regulation as a person to whom the prescribed local energy retail law does not apply; or
- Note* Power to make a statutory instrument (including a regulation) includes power to make different provision for different categories (see Legislation Act, s 48).
- (b) a geographic area of the ACT prescribed by regulation as an area to which the prescribed local energy retail law does not apply.
- (2) A prescribed NSW energy retail law applies to—
- (a) a person prescribed by regulation as a person to whom the prescribed NSW energy retail law applies; or
 - (b) a geographic area of the ACT prescribed by regulation as an area to which the prescribed NSW energy retail law applies.
- (3) A prescribed NSW energy retail law mentioned in subsection (2)—
- (a) applies as a territory law; and
 - (b) so applies as if it were part of this Act.
- (4) The prescribed local area retailer is the local area retailer for the prescribed NSW energy retail law.

Division 5.3 Other matters

18 Interest charges

- (1) A retailer may charge interest on a customer's account if the account is not paid before the end of the 14th day after the day it is due to be paid (the *due date*).
- (2) The retailer may charge the interest from the due date.
- (3) However, if the customer is a small customer, the retailer must not charge a rate of interest that—
 - (a) is not published as part of its standing offer prices; and
 - (b) is higher than the default rate.
- (4) Also, a retailer must not charge a small customer interest if it is prohibited by the *National Energy Retail Law (ACT)*.

Note A retailer must not charge a small customer interest on an amount undercharged (see *National Energy Retail Rules*, r 30).

- (5) In this section:

default rate means the rate of interest that applies to an unpaid judgment debt in the Supreme Court.

Note 1 See the *Court Procedures Rules 2006*, sch 2, r 2.3 (Interest on judgment after 30 June 2010—Supreme Court).

Note 2 The retailer must publish any interest charges on its website (see *National Energy Retail Law (ACT)*, s 2 (1), def *standing offer prices* and s 23).

19 Small market offer customers

The National Energy Retail Law, section 31 (Satisfaction of designated retailer's obligation to make standing offer by making market offer to certain small customers) does not apply in the ACT.

20 Small compensation claims regime

- (1) The National Energy Retail Law, part 7 (Small compensation claims regime) does not apply in the ACT.
- (2) However, if the Minister declares that part 7 applies from a stated date, part 7 applies from that date.
- (3) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Part 6 Miscellaneous

21 Provision of information by ICRC

- (1) Despite any other Act or law, the ICRC is authorised, on its own initiative or at the request of the AER—
- (a) to provide the AER with the information (including information given in confidence) in the ICRC's possession or control that is reasonably required by the AER for this Act or the *National Energy Retail Law (ACT)*; and
 - (b) to provide the AER with the assistance that is reasonably required by the AER to exercise a function under this Act or the *National Energy Retail Law (ACT)*.
- Note* **Exercise** a function includes perform the function (see Legislation Act, dict, pt 1), and **function** includes power (see Legislation Act, dict, pt 1).
- (2) Despite any other Act or law, the ICRC may authorise the AER to disclose information provided under subsection (1) even if the information was given to the ICRC in confidence.
- (3) Nothing done or authorised to be done by the ICRC in acting under this section—
- (a) constitutes a breach of, or default under, an Act or other law; or
 - (b) constitutes a breach of, or default under, a contract, agreement, understanding or undertaking; or
 - (c) constitutes a breach of a duty of confidence (whether arising by contract, in equity, by custom or in any other way); or
 - (d) constitutes a civil or criminal wrong; or
 - (e) terminates an agreement or obligation or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy; or

- (f) releases a surety or any other obligee wholly or in part from an obligation.

22 Extension of AER functions and powers

- (1) The following provisions of the *National Energy Retail Law (ACT)* apply as if a reference in the provisions to the Law included a reference to this Act, part 5 and this part:
 - (a) part 8 (Functions and powers of the Australian Energy Regulator);
 - (b) part 12 (Compliance and performance);
 - (c) part 13 (Enforcement);
 - (d) part 14 (Evidentiary matters);
 - (e) part 15 (General);
 - (f) any other provision prescribed by regulation for this subsection.
- (2) However, subsection (1) does not apply to—
 - (a) section 14 (Standing offer prices to be consistent with price directions for small customers); or
 - (b) any other provision of this Act prescribed by regulation for this subsection.
- (3) A regulation may modify the operation of a provision that applies under subsection (1) to the extent that it applies to a provision of this Act mentioned in that subsection.
- (4) Without limiting subsection (1) or the *National Energy Retail Law (ACT)*, part 8, division 2, the AER may require information or a document to be provided or produced by a person under that division that relates to a matter that arose before the commencement of that Law.

23 Regulation-making power

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

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) Without limiting subsection (1), a regulation may—

- (a) confer a function on the AER; or

Note **Function** includes power (see Legislation Act, dict, pt 1).

- (b) prescribe requirements that a retailer or distributor must comply with in relation to the provision of services, including in relation to the connection, de-energisation or re-energisation of premises; or

- (c) prescribe a matter that the *National Energy Retail Law (ACT)* contemplates is dealt with under jurisdictional energy legislation; or

- (d) provide that a matter or thing in relation to which a regulation may be made is to be decided, regulated or prohibited by the Minister or ICRC.

- (3) Also, a regulation may modify the operation of the following:

- (a) the *National Energy Retail Regulation (ACT)*;

- (b) the *National Energy Retail Rules*, to the extent that those rules apply in the ACT.

24 Local instruments for National Energy Retail Law (ACT)

- (1) The Executive may make regulations that are local instruments for the *National Energy Retail Law (ACT)*.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) Without limiting subsection (1), a regulation may confer a function on the AER.

Note **Function** includes power (see Legislation Act, dict, pt 1).

- (3) The Minister may make local instruments that are not regulations for the *National Energy Retail Law (ACT)*.

- (4) Without limiting subsection (3), a local instrument may confer a function on the AER.

- (5) A local instrument mentioned in subsection (3) is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

- (6) In this section:

for—a local instrument is made **for** the *National Energy Retail Law (ACT)* if that Law contemplates that the instrument be made under this Act.

Part 10 **Transitional**

Division 10.1 **Interpretation**

50 **Definitions—pt 10**

In this part:

commencement day means the day this section commences.

exempt seller includes an entity that, under the *National Energy Retail Regulation (ACT)*, is taken to be an exempt seller under the *National Energy Retail Law (ACT)*.

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).

retailer includes an entity that, under the *National Energy Retail Regulation (ACT)*, is taken to be a retailer under the *National Energy Retail Law (ACT)*.

Division 10.2 **Customer retail contracts**

51 **Standard customer contracts replaced by standard retail contracts**

- (1) This section applies if, immediately before the commencement day, a retailer and small customer were parties to a standard customer contract for the sale of energy under the *Utilities Act 2000*.
- (2) On the commencement day, the standard customer contract is replaced with a contract between the retailer and customer in the form of the retailer's standard retail contract for the sale of energy.
- (3) If the contract is for the sale of gas, the tariffs and charges under the contract are the tariffs and charges the retailer charged the customer for or in connection with the sale of gas to the customer immediately before the commencement day.

- (4) Subject to section 14 and section 53, the *National Energy Retail Law (ACT)* applies to the contract in the same way that it applies to a standard retail contract formed under that Law.
- (5) In this section:
standard retail contract, for a retailer, means the retailer's form of standard retail contract under the *National Energy Retail Law (ACT)*, section 25 (Adoption of form of standard retail contract).

52 Negotiated customer contracts to become market retail contracts

- (1) This section applies if, immediately before the commencement day, a retailer and small customer were parties to a negotiated customer contract for the sale of energy under the *Utilities Act 2000* (other than a feed-in contract).
- (2) On the commencement day, the negotiated customer contract becomes a market retail contract (a *transitioned market retail contract*) between the retailer and customer on the terms and conditions of the negotiated customer contract immediately before the commencement day.
- (3) Subject to section 53, the *National Energy Retail Law (ACT)* applies to a transitioned market retail contract in the same way that it applies to a market retail contract formed under that Law.
- (4) However, the customer may exercise any right to withdraw from the transitioned market retail contract during a cooling-off period under the terms and conditions of the negotiated customer contract immediately before the commencement day.

**53 Certain rights and liabilities under or in relation to s 51
and s 52 contracts—general**

- (1) This section applies in relation to—
 - (a) a standard customer contract between a retailer and small customer that is replaced with a standard retail contract under section 51; and
 - (b) a negotiated customer contract between a retailer and small customer that becomes a transitioned market retail contract under section 52.
- (2) If immediately before the commencement day, under or in relation to the contract—
 - (a) a security deposit (however described) paid by the customer is held by the retailer—the security deposit is taken to be a security deposit under the *National Energy Retail Law (ACT)* on the commencement day; and
 - (b) a notice given by the retailer or customer under the contract is valid and operative, and if the notice may have been given under the *National Energy Retail Law (ACT)*—the notice is taken to be a notice under that Law on the commencement day; and
 - (c) the customer pays the retailer’s accounts by a direct debit arrangement (however described)—the direct debit arrangement is taken to be a direct debit arrangement under the *National Energy Retail Law (ACT)* on the commencement day; and
 - (d) a payment plan (however described) is in operation—the payment plan is taken to be a payment plan under the *National Energy Retail Law (ACT)* on the commencement day.

- (3) Any interest under or in relation to the contract, or on a customer's security deposit (however described), that was accruing before the commencement day continues to accrue on and after the commencement day.
- (4) In this section:
transitioned market retail contract—see section 52 (2).

Division 10.3 Customer connection contracts

54 Standard customer contracts replaced by standard connection contracts—electricity

- (1) This section applies if, immediately before the commencement day, a distributor and person were parties to a standard customer contract for an electricity connection and distribution service under the *Utilities Act 2000*.
- (2) On the commencement day—
 - (a) the standard customer contract is replaced with a contract between the distributor and person in the form of the distributor's standard connection contract; but
 - (b) the charges under the standard customer contract are not replaced.
- (3) The *National Energy Retail Law (ACT)* applies to the contract in the same way that it applies to a standard connection contract for a distributor.
- (4) In this section:
standard connection contract, for a distributor, means the form of the distributor's deemed standard connection contract under the *National Energy Retail Law (ACT)*, section 69 (Adoption of form of deemed standard connection contract).

55 Negotiated customer contracts to become negotiated connection contracts—electricity

- (1) This section applies if, immediately before the commencement day, a distributor and small customer were parties to a negotiated customer contract for an electricity connection service under the *Utilities Act 2000* (other than a feed-in contract).
- (2) On the commencement day, the negotiated customer contract becomes a negotiated connection contract (a ***transitioned negotiated connection contract***) between the distributor and customer on the terms and conditions of the negotiated customer contract immediately before the commencement day.
- (3) The *National Energy Retail Law (ACT)*, other than section 78 (1) and (2) (Negotiated connection contracts), applies to a transitioned negotiated connection contract.
- (4) Also—
 - (a) a transitioned negotiated connection contract is taken to include provisions to the effect of the provisions mentioned in the *National Energy Retail Rules*, rule 82 (Small customer complaints and dispute resolution information); and
 - (b) if a transitioned negotiated connection contract contains a term or condition mentioned in the *National Energy Retail Rules*, rule 83 (Liabilities and immunities), the term or condition is void.

Division 10.4 Applications for connection and supply

56 Application for electricity connection service under Utilities Act

- (1) This section applies if an application is made, but not decided, under the *Utilities Act 2000*, section 79 (1) (a) or (b) (Electricity connection service) before the commencement day.
- (2) The application must be dealt with under the *Utilities Act 2000* as in force immediately before the commencement day.
- (3) If a contract is formed under subsection (2), the contract is taken to be a connection contract under the national electricity rules, chapter 5A (Electricity connection for retail customers).
- (4) In this section:

national electricity rules means the National Electricity Rules under the *National Electricity (ACT) Law*.

57 Application for supply of electricity or gas under Utilities Act

- (1) This section applies if—
 - (a) before the commencement day, a small customer made an application under the *Utilities Act 2000*, section 80 (Electricity supply service) or section 82 (Gas supply service) to a retailer for the supply of electricity or gas to premises owned or occupied by the customer; and
 - (b) immediately before the commencement day, a contract between the small customer and retailer for that supply had not been entered into.
- (2) The application is taken to be a request by the small customer to the retailer for an offer under the *National Energy Retail Law (ACT)*, section 22 (Obligation to make offer to small customers).

Division 10.5 Customer hardship

58 Customer taken to be hardship customer

- (1) This section applies if, immediately before the commencement day—
 - (a) a retailer had a hardship program (however described) in relation to its customers; and
 - (b) the retailer is dealing with a customer under the *Utilities Act 2000* under that program.
- (2) The customer is taken to be a hardship customer of the retailer under the *National Energy Retail Law (ACT)*.

Division 10.6 Complaints

59 Complaints to utilities

- (1) This section applies if—
 - (a) before the commencement day, a person was—
 - (i) a customer of a retailer or distributor in relation to the sale or distribution of energy under the *Utilities Act 2000*; or
 - (ii) a consumer in relation to the sale or distribution of energy by a retailer or distributor under the *Utilities Act 2000*; and
 - (b) the customer or consumer made a complaint to the retailer or distributor in relation to that sale or distribution, and the complaint has not been resolved immediately before the commencement day.
- (2) The complaint is not affected by the *National Energy Retail Law (ACT)* or the *National Energy Retail Law (Consequential Amendments) Act 2012*.

60 Complaints to ACAT

- (1) This section applies if—
 - (a) under the *Utilities Act 2000*, section 172 (ACAT applications), a complainant applied to the ACAT in relation to a complaint about a retailer or distributor in relation to the sale or distribution of energy; and
 - (b) the complaint has not been finally decided by the ACAT or a court immediately before the commencement day.
- (2) The complaint is not affected by the *National Energy Retail Law (ACT)* or the *National Energy Retail Law (Consequential Amendments) Act 2012*.

Division 10.7 Contraventions of licence conditions under Utilities Act

61 Contravention of licence condition by utility

- (1) The ICRC may begin or continue an investigation under the *Utilities Act 2000* of a contravention by a former licence-holder of a condition of its licence in relation to an act or omission (or alleged act or omission) of the former licence-holder that happened before the commencement day.
- (2) The action that the ICRC may take in relation to (including at the end of) the investigation is not affected by the *National Energy Retail Law (ACT)* or the *National Energy Retail Law (Consequential Amendments) Act 2012*.

Example

The ICRC may give a former licence-holder a direction under the *Utilities Act 2000*, s 48 (Directions about licence condition).

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) Also, the ICRC may refer the matter to the AER if the ICRC considers that the matter is relevant to the operation of the *National Energy Retail Law (ACT)*.
- (4) In this section:
- former licence-holder* means a person who—
- (a) held a licence under the *Utilities Act 2000* immediately before the commencement day; and
 - (b) is a retailer on the commencement day.

Division 10.8 Exempt sellers

62 Exempt sellers—conditions

- (1) This section applies if, immediately before the commencement day, an exempt seller was the subject of an exemption under the *Utilities Act 2000*, section 22 (Exemption) that was subject to a condition.
- (2) The Minister may determine that the condition is a condition for the *National Energy Retail Law (ACT)*.
- (3) A determination is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (4) A condition determined by the Minister under this section is taken to be a condition imposed on the exempt seller by the AER under the *National Energy Retail Law (ACT)*, section 112 (Conditions).
- (5) The AER must consult the Minister before it varies or revokes a condition determined by the Minister under this section.

Division 10.9 Miscellaneous

63 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.
- (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, the *National Energy Retail Law (ACT)* or another territory law.

Note 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 s 9 (2) and Legislation Act, s 104).

64 Expiry—pt 10

This part expires 5 years after the commencement day.

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).

Dictionary

(see s 3)

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
- exercise
- function
- independent competition and regulatory commission
- Minister (see s 162)
- territory law.

ICRC means the independent competition and regulatory commission.

local energy retail law, for division 5.2 (Border area arrangements)—see section 15.

National Energy Retail Law means the National Energy Retail Law set out in the schedule to the South Australian Act, as amended from time to time.

Note The South Australian Act is accessible at www.legislation.sa.gov.au.

National Energy Retail Law (ACT) means the provisions applying because of section 6.

National Energy Retail Regulation (ACT) means the provisions applying because of section 7.

NSW energy retail law, for division 5.2 (Border area arrangements)—see section 15.

prescribed local area retailer, for division 5.2 (Border area arrangements)—see section 15.

prescribed local energy retail law, for division 5.2 (Border area arrangements)—see section 15.

prescribed NSW energy retail law, for division 5.2 (Border area arrangements)—see section 15.

South Australian Act means the *National Energy Retail Law (South Australia) Act 2011 (SA)*.

Note A reference to a law (including the South Australian Act) includes a reference to the law as originally made and as amended (see Legislation Act, s 102).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 10 May 2012.

2 Notification

Notified under the Legislation Act on 14 June 2012.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the National Energy Retail Law (ACT) Bill 2012, which was passed by the Legislative Assembly on 5 June 2012.

Clerk of the Legislative Assembly

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