



2000

**THE LEGISLATIVE ASSEMBLY FOR  
THE AUSTRALIAN CAPITAL TERRITORY**

**UTILITIES BILL 2000  
UTILITIES (CONSEQUENTIAL PROVISIONS) BILL 2000**

**ADDENDUM TO THE EXPLANATORY MEMORANDA  
PRESENTED TO THE ASSEMBLY ON 17 FEBRUARY 2000**

**CIRCULATED BY AUTHORITY OF  
GARY HUMPHRIES MLA  
TREASURER**

## UTILITIES BILL 2000

### Preamble

This Addendum to the Explanatory Memorandum provides further explanation of a number of the provisions of the Utilities Bill. This further explanation is in response to issues raised by the Scrutiny of Bills Committee in its report on the Utilities Bill and the Utilities (Consequential Provisions) Bill and in consultation with community and industry groups.

#### **Clause 22: Power to dispense with the law**

Clause 22 provides for the exemption of a stated person from holding a utility licence. The reason for the exemption is that some large institutions, such as caravan parks, universities, retirement villages, apartment blocks or office blocks, may have their own facilities and network for the distribution and supply of electricity to tenants. In the absence of an exemption, relevant organisations or landholders would be required to obtain a utility licence. In the above cases the usual licence conditions concerning electricity distribution and supply may be inappropriate and hence, the services, often provided under commercial arrangements between the landlord and tenant, should be subject to an exemption.

Exemptions may, however, be subject to certain conditions such as a requirement to comply with safety and technical requirements under the Act, or that electricity supply is made available on terms no less favourable than would have been available through the primary distributor. The aim of these conditions is to protect "embedded" customers.

#### **Clause 25: Licensing powers**

Clause 25 specifies the conditions to which utilities' operating licences are subject. ICRC's objects under clause 3 of the Bill also have a bearing on the setting of licence conditions. Similarly, licence decisions must all be made with ICRC's objects in mind.

#### **Clause 26: Licensing criteria**

Clause 26 provides for the ICRC to adopt technical and prudential criteria to assess the suitability of applicants to be granted utility licences. The use of such criteria is intended to help ICRC establish whether utilities are financially viable and technically able to provide the services that they are seeking to provide. Prudential criteria include, for example, meeting acceptable credit criteria and ratings. Technical criteria relate to the applicant's ability to comply with the requirements of the licences and associated codes of practice.

#### **Clauses 36, 37 and 38: Licensing powers**

Clauses 36, 37, 38 provide for the Independent Competition and Regulatory Commission (ICRC) varying a utility's operating licence, exempting a utility from complying with certain licence conditions and transferring licences, respectively. In making these decisions, the ICRC must have regard to its objectives under the Act.

**Subclause 61(2): Contestable works**

Under this clause technical codes may provide for the accreditation of persons for the purposes of connecting premises to a network or varying the capacity of the connection. It should be noted that variations primarily apply to increases in capacity, not reductions.

**Clauses 119 and 121: Offences of strict liability**

Clauses 119 (Interference with networks) and 121 (Contamination of water) create strict liability offences. The approach is appropriate in view of the seriousness of the offences and, more importantly, the risk such offences pose to public safety.

**Clauses 202 and 203: Directions to a Utility to conform to a government program**

Clauses 202 and 203 provide for customer debts to be wholly or partially discharged by the Essential Services Consumer Council in cases of hardship. As provided for in clause 213 it is intended that the amount discharged is a debt due to the relevant utility by the Territory. The utility will therefore not suffer any losses.

**UTILITIES (CONSEQUENTIAL PROVISIONS) BILL 2000****Clause 4: Regulation making**

Clause 4 concerns regulation making powers. Clause 4(5) provides for the regulations to modify the operation of the Act to address matters that are not dealt with, or are inadequately dealt with, in the Act. This is a Henry 8<sup>th</sup> clause. This clause has been included to allow further consequential amendments, or a change to an amendment already made by the Bill, to be made by regulation to address minor matters, if any, which over time appear to be not adequately addressed in the Bill.