



2006

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

**UTILITIES (NETWORK FACILITIES TAX) BILL 2006
EXPLANATORY STATEMENT**

**Presented by
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Treasurer**

This explanatory statement relates to the Utilities (Network Facilities Tax) Bill 2006 as introduced into the Legislative Assembly.

Overview of Bill

The main purpose of this Bill is to impose a tax on a network facility on land in the ACT under the Taxation Administration Act 1999.

A network facility is any part of the infrastructure of a utility network not fixed to land subject to a lease, a license granted by the Territory or any right prescribed by regulation.

Utility networks include networks for transmitting and distributing electricity, gas, sewerage, water and telecommunications.

Examples of a network facility include powerlines or pipes over or under land, and telecommunications cabling.

Notes on Clauses

Clause 1 Name of Act

This Bill, once enacted, will be known as Utilities (Network Facilities Tax) Act 2006.

Clause 2 Commencement

This Act will commence on the day after its notification day.

Clause 3 Dictionary

Clause 3 provides that the dictionary at the end of this Act is part of this Act.

Clause 4 Notes

Clause 4 states that notes included in this Act are explanatory and are not part of this Act.

Clause 5 Offences against Act—application of Criminal Code etc

Clause 5 provides for other legislation to apply in relation to offences against this Act. The Criminal Code applies to offences against this Act and the Legislation Act deals with the meaning of offence penalties that are expressed in penalty units.

Clause 6 What is a *network facility*?

Clause 6 provides the meaning of a *network facility*. It does not include any facility or part of a facility that is not fixed to land subject to a lease, a license granted by the Territory or any right prescribed by regulation. The Note to Clause 6 provides examples of a network facility.

Clause 7 What is a *utility network*?

Clause 7 provides the meaning of a utility network.

Clause 8 Network facility tax

Clause 8 provides the formula for determining the amount of tax to be paid by the owner of a network facility on land in the ACT.

Clause 9 Registration of owners of network facilities

Clause 9 provides for the commissioner to register a person as the owner of a network facility in specified circumstances.

Clause 10 Offence—failure to register

Clause 10 provides offence provisions. A person is strictly liable to a penalty of 250 penalty units if the person becomes the owner of a network facility on ACT land and fails to register it with the commissioner within 90 days of acquiring ownership, or owns such a facility on commencement of the Act and fails to register it within 90 days of commencement.

Clause 11 Ownership of network facility—fixtures to land

Clause 11 provides that the owner or occupier of land to which a network facility is affixed has no proprietary interest in it only because it is so affixed.

Clause 12 Returns

Clause 12 provides for the owner of a network facility to lodge a return annually with the commissioner if, at any time during the year, the owner was the owner of a network facility on ACT land. The annual return must be in writing, be lodged with the commissioner not later than 60 days after the end of the year, and state the route length of each network facility and the way in which it was calculated.

Clause 13 Assessment

Clause 13 provides for any difference in the route length used in the commissioner's assessment of the tax payable in relation to a network facility for a year from that stated in the owner's annual return. In this case the assessment must include information used by the commissioner in the assessment and the way in which the commissioner estimated the route length.

Clause 14 Regulation-making power

Clause 14 provides for the Executive to make regulations for this Act.

Clause 15 Taxation Administration Act 1999, new section 4 (ka)

Clause 15 inserts new section 4 (ka) in the Taxation Administration Act 1999 so that this Act is a tax law.