

## EXPLANATORY STATEMENT

### AUSTRALIAN CAPITAL TERRITORY

#### ELECTRICITY AND WATER (AMENDMENT) ORDINANCE 1989

No. 28, 1989

The Electricity and Water Ordinance 1988 (the Principal Ordinance) establishes an Electricity and Water Authority for the Australian Capital Territory and makes provision for its operation.

The Electricity and Water (Amendment) Ordinance 1989 (the Ordinance) amends the Principal Ordinance to require the Authority to prepare an annual report which will be tabled in Parliament by the Minister. It also inserts provisions to allow application to be made to the Authority for refund or remission of charges and for review by the Administrative Appeals Tribunal of a decision on such an application.

The amendments contained in the proposed Ordinance were requested by the Senate Standing Committee on Regulations and Ordinances after examination of the Principal Ordinance. They are in accordance with an undertaking given by the Minister to the Committee to have the Principal Ordinance amended as requested.

Details of the Ordinance are as follows.

Section 1 provides that the Ordinance may be cited as the Electricity and Water (Amendment) Ordinance 1989.

Section 2 provides that the Principal Ordinance is the Electricity and Water Ordinance 1988.

Section 3, section 4 and section 5 amend the Principal Ordinance by removing the provisions requiring the preparation and tabling in Parliament of statements in respect of certain business dealings by the Authority. Section 3 omits subsection 8(3) of the Principal Ordinance, which concerns the subscription for or purchase of shares, debentures or other securities of a company by the Authority, and the formation of a company which would be a subsidiary of the Authority. Section 4 omits subsection 9(3) of the Principal Ordinance, which concerns the Authority entering into a partnership. Section 5 omits subsection 10(3) of the Principal Ordinance which deals with the participation by the Authority in a joint venture.

Section 6 repeals section 11 of the Principal Ordinance, which refers only to matters contained in subsections 8(3), 9(3) and 10(3).

Section 7 amends section 78 of the Principal Ordinance to provide that refunds or remissions of charges may be made either on application by a person liable to pay a charge or on the Authority's own motion.

Section 8 inserts into the Principal Ordinance sections 78A and 78B.

The new section 78A provides that if the Authority on an application for refund or remission decides to refuse to refund or remit the charge or to refund or remit less than applied for it must, within 28 days, give a written notice to the applicant of the decision. The notice is to include a statement that, subject to the Administrative Appeals Tribunal Act 1975, an application may be made to the Administrative Appeals Tribunal for review of the decision and, except where subsection 28(4) of that Act applies, a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 28 of that Act.

Subsection 28(4) of the Administrative Appeals Tribunal Act provides that a person is not entitled to request under section 28 a statement of reasons for a decision if he or she has already received a notice which includes the findings on material questions of fact, the evidence or other material on which those findings were based and the reasons for the decision.

The new section 78B provides that application may be made to the Administrative Appeals Tribunal for review of a decision referred to in section 78A to refuse to refund or remit a charge or to refund or remit less than applied for.

Section 9 inserts a new section 79A into the Principal Ordinance.

The new section 79A requires the Authority, as soon as practicable after 30 June each year, to prepare and furnish to the Minister a report concerning the operation of the Principal Ordinance and the financial and business affairs of the Authority during the preceding 12 months. It also provides that the Minister shall table before each House of Parliament, within 15 sitting days of receiving it, a copy of the report.