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

**GOVERNMENT AMENDMENTS
TO THE UTILITIES (TECHNICAL REGULATION) BILL 2014**

SUPPLEMENTARY EXPLANATORY STATEMENT

**Presented by
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Minister for the Environment**

GOVERNMENT AMENDMENTS TO THE UTILITIES (TECHNICAL REGULATION) BILL 2014

Outline of amendments

These Government Amendments make minor and technical amendments to the Utilities (Technical Regulation) Bill 2014 (the Bill) to address matters raised by stakeholders after the introduction of the Bill.

The Bill amends part 5 of the *Utilities Act 2000* and creates stand-alone legislation for technical regulation. The *Utilities Act 2000* provides a technical and industry regulatory framework for electricity, gas, water and sewerage utility services and part 5 is technical regulation.

The changes in these Government Amendments are the threshold of electricity generation capacity that is required to have a licence (Government Amendments 2 and 3), the technical regulator's power in relation to licensing conditions (Government Amendment 9), the omission of the technical regulator's power to determine technical regulatory costs (Government Amendments 15 and 16), and the new provision of a six months transitional period for ongoing utility service providers (Government Amendment 18).

Clause Notes

In these clause notes, the Act or this Act refers to the *Utilities (Technical Regulation) Act 2014*.

Government Amendment 1: Clause 6 (b)

This amendment replaces 'promote design compliant, high performing and responsive regulated utility networks' with 'promote design integrity and functionality of regulated utility networks' to improve a description of the technical regulation objective.

Government Amendment 2: Clause 9 (1) (c)

Government Amendment 3: Clause 9 (2)

Clause 9 defines a regulated utility service under this Act. A utility service under part 2 of the *Utilities Act 2000* will be a regulated utility service under the Act. As the Bill proposes to make consequential amendments to the *Utilities Act 2000*, electricity generation of 5MW or more that is connected to an electricity network will be a utility service under the *Utilities Act 2000* and is required to hold a licence.

This amendment raises this 5MW threshold to 30MW. Large electricity generation of 30MW or more that is connected to an electricity network will be a utility service under the *Utilities Act 2000* and will be required to hold a licence. Small or medium electricity generation of 30kW or more but less than 30MW that is connected a network will be required to hold an operating certificate.

This change is a result of consultation with generators and consideration of national technical and market standards. Under the National Electricity Rules, electricity generators with 30MW of energy or more are categorised as scheduled generators.

Government Amendment 4: Clause 11 (1) (g)

This amendment corrects a minor drafting error.

Government Amendment 5: Clause 32 (2)

This amendment inserts a note referring to the related provision of the *Utilities Act 2000*. No substantial change is made to clause 32.

Government Amendment 6: Clause 45 (c)

This amendment corrects a minor drafting error.

Government Amendment 7: Clause 48 (1) (d)

This amendment corrects a minor drafting error. Although clause 45 (c) states a notice of fees may be given to the applicant before granting an operating certificate, clause 48 of the Bill does not include the notice of fees as a general condition of an operating certificate. Clause 48 (1) (d) is inserted to be consistent with clause 45 (c).

Government Amendment 8: Clause 57

This amendment amends a definition of dam to use more accurate technical terms of dam infrastructure. This does not change the type of dams regulated under the Act.

Government Amendment 9: Clause 79

This amendment amends the technical regulator's power in relation to licensing conditions. Clause 79 of the Bill proposes to give the technical regulator a power to impose a condition to a licence granted under the *Utilities Act 2000*. Considering the licensing authority that imposes conditions is the Independent Competition and Regulatory Commission (ICRC), this clause is amended to give the technical regulator a power to recommend ICRC a licensing condition.

Before recommending the condition to ICRC, the technical regulator must give the utility a show cause notice about the proposed recommendation and a 20 day submission period.

Government Amendment 10: Clause 80 (2) (e)

This amendment reflects the amendment made to clause 79.

Government Amendment 11: Schedule 1, item 7

This amendment omits item 7 to reflect the amendment made to clause 79.

Government Amendment 12: Schedule 2, part 2.4 Amendment 2.8 on page 84

This amendment reflects the amendment made to clauses 9 (1) (c) and (2).

Government Amendment 13: Schedule 2, part 2.4 Amendment 2.11 on page 84

This amendment omits item 7 to reflect the amendment made to clause 79.

Government Amendment 14: Schedule 2, part 2.4 Amendments 2.11A and 2.11B on page 84

This amendment reflects the amendment made to clause 79.

Government Amendment 15: Schedule 2, part 2.4 Amendments 2.12 to 2.14 on page 84

This amendment omits consequential amendments to section 45 of the *Utilities Act 2000*.

The Bill proposes the technical regulator's power to determine a technical regulatory cost that is part of the annual licence fee. The annual licence fee consists of the cost of ICRC, the cost of the ACT Civil and Administrative Tribunal (ACAT) and the cost of technical regulation under this Act.

These consequential amendments to section 45 are omitted on the basis that there may be unintended consequences upon the operation of these chapters in the Act. The current determination process in the *Utilities Act 2000* will remain.

Government Amendment 16: Schedule 2, part 2.4 Amendments 2.2 and 2.3 on page 86

This amendment omits consequential amendments to section 54F of the *Utilities Act 2000*.

The Bill proposes the technical regulator's power to determine a technical regulatory cost that is part of the local regulatory costs of the energy levy. The local regulatory costs of the energy levy consist of the cost of ICRC, the cost of ACAT and the cost of technical regulation under this Act.

These consequential amendments to section 54F are omitted on the basis that there may be unintended consequences upon the operation of these chapters in the Act. The current determination process in the *Utilities Act 2000* will remain.

Government Amendment 17: Schedule 2, part 2.4 Proposed new amendment 2.8A on page 88

This amendment inserts a note to section 106 (2) (d) of the *Utilities Act 2000* referring to the related provision of the Act. No substantial change is made to section 106.

Government Amendment 18: Schedule 2, part 2.4 Proposed new amendments 2.13A and 2.13B on page 88

This amendment 2.13A corrects a minor drafting error and inserts the "the *Utilities (Technical Regulation) Act 2014*" in table 172 of the *Utilities Act 2000*.

The amendment 2.13B introduces a six months transitional period for licensing electricity generation and transmission operators to enable the licensing authority, ICRC, a time to process licensing applications.

Government Amendment 19: Schedule 2, part 2.4 Amendment 2.17 on page 89

This amendment corrects a minor drafting error. It inserts a definition of network protection notice by referring to the definition provided by the Act.

Government Amendment 20: Schedule 2, part 2.4 Proposed new amendment 2.17A on page 89

This amendment corrects a minor drafting error. It inserts a definition of regulated utility by referring to the definition provided by the Act.

Government Amendment 21: Dictionary Proposed new definition of network protection notice page 92

This amendment inserts a reference to the definition of network protection notice provided by the Act.

Government Amendment 22: Dictionary Definition of show cause notice page 93

This amendment reflects the amendment made to clause 79.