

Australian Capital Territory

Construction Occupations (Licensing) Amendment Regulation 2017 (No 1)

Subordinate law SL2017-33

made under the

Construction Occupations (Licensing) Act 2004, s 129 (Regulation-making power)

EXPLANATORY STATEMENT

This explanatory statement relates to the Construction Occupations (Licensing) Amendment Regulation 2017 (No 1) as presented to the ACT Legislative Assembly. It has been prepared to assist the reader of the amending regulation. It does not form part of the amending regulation and has not been endorsed by the Assembly.

The statement is to be read in conjunction with the amending regulation. It is not, and is not meant to be, a comprehensive description of the amending regulation. This statement provides information about the intent of the provisions in the regulation; however, it is not to be taken as providing a definitive interpretation of the meaning of a provision.

Background

The *Construction Occupations (Licensing) Amendment Regulation 2017 (No 1)* amends the *Construction Occupations (Licensing) Regulation 2004*.

Electrical meters have traditionally been supplied by the distribution network service provider (or DNSP). From 1 December 2017, services to provide, install and maintain retail electrical meters will be provided through electricity retailers, creating competition for metering services. From that date all new and replacement electricity meters for metered services will be interval meters, capable of wireless communication and measuring electricity use in small intervals. The only exception will be new metering installations booked in with a DNSP prior to 1 December 2017 and installed before March 2018.

Electricity customers will not be required to replace their older meters if they still work. The meters can continue to be maintained until they reach the end of their service life.

Electrical licensing

Customer electrical meters are not part of the electrical network – they are an electrical installation or part of one. Metering work is already licensable electrical work. However, under existing arrangements, metering services are controlled by DNSPs and regulated under utilities legislation i.e. the work is not contestable. Meters are installed by licensed people who operate under the DNSP licence or in accordance with its service and installation rules.

From 1 December 2017, electricity retailers will need to appoint Metering Coordinators authorised under national law. Metering Coordinators will appoint Metering Providers to undertake the work. Therefore, responsibility for safe and compliant installations will shift from DNSP and utility law to individual electrical licensees under the *Electricity Safety Act 1971*.

The current qualification required to obtain an electrician licence is the certificate III in electro-technology systems. That certificate does not include competencies in metering work for interval meters. To manage the risks associated with the changes in responsibility for metering work, consequential changes to the electrical licensing regime are required to ensure meter installers are appropriately trained in metering work.

Endorsement on unrestricted electrician and electrical contractor licences

The regulation amends the Construction Occupations (Licensing) Regulation to remove metering work for the scope of licensees who can work unsupervised and restricted permit holders and create an endorsement for electrical metering work in interval metering installations. The endorsement would be available to people on an unrestricted electrician licence and to electrical contractor licences (see Schedule 1, Part 1.6 of the Regulation). This would allow electricians who have already or wish to undertake relevant training to obtain the endorsement. Electricians that are not interested in the work can choose not to have the endorsement.

Electrotechnology system permit holders will be able to carry out metering work under supervision without an endorsement.

Restricted permit holders should not be undertaking metering work as incidental electrical work.

Regulatory Impact Statement (RIS)

A RIS is not required for this regulation. Sections 36 (1) (g) and (h) of the Legislation Act provide that a RIS need not be prepared for a matter arising under a territory law that is part of a uniform scheme of legislation or complementary with legislation of the Commonwealth, a State or New Zealand, or a matter involving the adoption of an Australian or international protocol, standard, code, or intergovernmental agreement or instrument, if an assessment of the benefits and costs has already been made and the assessment was made for, or is relevant to, the ACT.

The endorsement to which these qualifications relate to implementing changes to the [National Electricity Rules](#) to increase the contestability of metering work commencing on 1 December 2017. The National Electricity Rules are made under the National Electricity Law. The ACT adopts the National Electricity Law under the *National Energy Retail Law (ACT) Act 2012* (A2012-31). Regulatory impact analysis for the reforms was undertaken for the COAG Energy Council and applied to the ACT. The regulatory impact analysis can be found at <http://www.aemc.gov.au/getattachment/ed88c96e-daf-42c7-9f2a-51a411e83574/Final-determination.aspx> . Participation in this national reform is announced government policy.

The regulation does remove work under the scope of the new interval metering endorsement from certain existing electrical licences. However, under the existing arrangements the work is not contestable. Electricians are not able to undertake this work based solely on their ACT licence and require additional authorisation from the DNSP under their rules. As such removing this scope does not unduly limit existing rights under the licence or impose an appreciable cost on licensees. It also provides opportunity for electricians to undertake work they were previously not able to.

Offences and penalties

The regulation does not introduce any new offences or penalties.

Human Rights

The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) terms of reference require consideration of human rights impacts, among other matters. There are no human rights impacts related to this instrument.

Scrutiny Committee Principles

The regulation is consistent with Scrutiny Committee (the Committee) principles.

- Although the Construction Occupations Licensing Act does not include objects, the regulation accord with the general purpose of the Act by making provision for electrical licensing requirements.
- The regulation does not unduly trespass on rights previously established by law. The regulation does remove work under the scope of the new interval metering endorsement from certain existing electrical licences. However, under the existing arrangements electricians are not able to undertake this work based solely on their ACT licence and require additional authorisation and oversight of their work from the relevant DNSP. The metering contestability reform provides the opportunity for electricians to undertake work they were previously not able to. The regulation also extends existing review rights to the new endorsement.
- The regulation does not make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions, as licensing decisions are subject to review or appeal.
- The regulation does not contain matters which should properly be dealt with in an Act of the Legislative Assembly. The Act provides for licensing classes and associated matters to be contained in a regulation.

Clause Notes

Part 1 Preliminary

Clause 1 Name of Regulation

This clause provides that the name of the regulation is the *Construction Occupations (Licensing) Amendment Regulation 2017 (No 1)*.

Clause 2 Commencement

This clause provides for the commencement of the amendments on 1 December 2017. This coincides with the commencement of amendments to the National Electricity Rules for metering contestability.

Clause 3 Legislation amended

This clause provides that the regulation amends the *Construction Occupations (Licensing) Regulation 2004*.

Clause 4 Division 5.2 heading

This clause substitutes a new heading for the division of *Endorsements on licences* to create a separate division for licence endorsements.

Clause 5 Section 29

This clause relocates section 29, which relates to the return of licences, as new section 32A in new Division 5.3 as a consequence of creating a separate division for licence endorsements (see clauses 4 and 9).

Clause 6 New section 31 C

This clause inserts a new section 31C, which provides for endorsing unrestricted electrician and electrical contractor licences for interval metering work. Interval metering work is work on type 1, type 2, type 3 and type 4 metering installations as described in the National Electricity Rules (the Rules). The work also includes removing the other types of metering installations covered by the Rules (types 5-7), but excludes installing and undertaking other work on those metering installations.

An person or partnership must apply for the endorsement. The Registrar can grant the endorsement if satisfied the person is competent to do the work. Section 13 of the Regulation provides for the Minister to make a declaration of the qualifications an applicant may require to be eligible for a particular licence. Note 2 also alerts readers that in deciding whether to endorse a licence under this section, the registrar must consider the considerations in s 32.

Note 1 is included as the ACT licence endorsement does not authorise work under the National Electricity Rules. There are separate authorisations required for people to arrange for or undertake for electrical meters issued by the Australian Energy Market Operator.

Clause 7 Section 32 heading

This clause substitutes a new heading for section 32 to exclude references to particular sections and encompass all licences that can be endorsed.

Clause 8 Section 32 (1)

Clause 8 amends section 32 (1) to remove references to individual sections and refer instead to endorsements under Division 5.2. This division is made specifically about licence endorsements by clause 5.

Clause 9 New division 5.3 heading

Clause 9 creates a new division 5.3 which includes relocated provisions for return of licences (section 32A), and existing sections 33 *Replacement licences* and 35 *Services that may be provided without a licence*.

Clause 10 New part 9

In accordance with the Legislation Act section 81 *Exercise of powers between notification and commencement*, applications for metering endorsements will be taken prior to the commencement of the regulation and endorsements will be granted where applicants are eligible. However, due to the short lead in period it is likely that some applications will need to be decided after the commencement.

This clause includes transitional provisions that are intended to primarily benefit those electricians that have arrangements in place with a Metering Coordinator to provide metering services immediately or shortly after the commencement of the regulation.

The transition provides that a person need not have interval metering work endorsement (the endorsement) if the person:

- holds an unrestricted electrician or electrical contractor licence; and
- has made an application to the Construction Occupations Registrar for the endorsement prior to 14 February 2018 and the application has not been decided; and
- is undertaking the interval metering work under the supervision of a person who holds the endorsement.

The transitional provision applies to work undertaken from 1 December 2017 to 28 February 2018 inclusive. This aligns with the transitional arrangements for installing type 5 and 6 meters under the national arrangements. The earlier cut off of 14 February 2018 for applicants is to encourage them to apply with enough time for their application to be decided before the transition ends.

After the transition applicants will need to have the endorsement to undertake the work, unless exempt while undertaking a course of training in interval metering under section 35 of the Regulation.

Clause 11 Schedule 1, part 1.6, items 1 and 2

This clause amends the scope of work for unrestricted electricians and electrical contractors to exclude interval metering work.

Interval metering work will require a separate endorsement for these licensees under section 31C (see clause 6). Electricians who wish to undertake the work and have completed relevant training can choose to obtain the endorsement. Electricians that are not interested in the work can choose not to have the endorsement without it affecting their authorisation to undertake other types of electrical wiring work without restriction.

Electrotechnology system permit holders will be able to carry out metering work under supervision without an endorsement as this permit is intended for people to work while they train to become licensee who can work without supervision.

Restricted permit holders should not be undertaking metering work as incidental electrical work (see clause 13).

Clause 12 Schedule 4, new item 29A

This clause inserts a new reviewable decision for refusing to endorse an electrical contractor or unrestricted electrician licence for interval metering work. This is consistent with decisions for other licence endorsements and the principles of procedural fairness.

**Clause 13 Dictionary, definition of *incidental electrical work*,
new paragraph (c)**

An electrical meter can be considered an appliance. Some electrical licences allow people whose main occupation is not as an electrician to undertake limited electrical wiring work including fault finding and disconnecting and reconnecting appliances they may undertake work on as part of their main occupation.

Interval metering work is considered work that only people whose main occupation is as an electrician should undertake as it has potentially very high safety risks. It is not incidental to the types of work that people in other occupations may undertake.

Clause 13 amends the definition of *incidental electrical work* to explicitly exclude interval metering work and remove doubt about whether work on an interval meter could be captured by the definition.

Clause 14 Dictionary, new definition of *interval metering work*

Clause 14 inserts a new definition of interval metering work in the Dictionary, which refers readers to the definition in new section 31C (3) (see clause 6).