

# Electricity Safety (Light Rail Regulated Utility – Stage 2A) Exemption 2025

## Disallowable Instrument DI2025–245

made under the

*Electricity Safety Act 1971*, s 62B (Minister may exempt regulated utility)

## EXPLANATORY STATEMENT

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This explanatory statement relates to the *Electricity Safety (Light Rail Regulated Utility – Stage 2A) Exemption 2025* (the instrument) as presented to the Legislative Assembly. It has been prepared to assist the reader of the disallowable instrument. It does not form part of the instrument and has not been endorsed by the Assembly. This explanatory statement must be read in conjunction with the instrument. It is not, and is not meant to be, a comprehensive description of the instrument.

### Background

This instrument is made under the *Electricity Safety Act 1971* (ES Act). Section 62B of the ES Act allows the Minister to exempt a regulated utility from the ES Act by disallowable instrument if the Minister is reasonably satisfied that –

- (a) the regulated utility is adequately regulated under another territory or Commonwealth law; and
- (b) the exemption does not increase the risk to public safety.

A regulated utility is defined under Section 8 of the *Utilities (Technical Regulation) Act 2014* (UTR Act).

A regulated utility service is defined under Section 9 of the UTR Act. A regulation may prescribe a regulated utility service for the UTR Act under section 10 of the UTR Act if the Minister is satisfied on reasonable grounds that the service includes infrastructure for the provision of electricity, gas, another form of energy, water or sewerage. The *Utilities (Technical Regulation) (Light Rail—Regulated Utility Service) Regulation 2016* prescribes the supply of electricity from a light rail network is a regulated utility service.

The purpose of the instrument is to exempt John Holland Pty Ltd (the regulated utility) from the requirements of the ES Act in relation to the design and construction of the supply of electricity from a light rail network (the regulated utility service).

## Overview

### ES Act Exemption Considerations

The construction of stage 1 of the Canberra light rail network during 2018 and 2019 identified aspects of the electrical work to which the ES Act still applied in addition to requirements under the UTR Act. This duplication was not intended when the *Utilities (Technical Regulation) (Light Rail – Regulated Utility Service) Regulation 2016* was introduced. Additionally, by operation of sections 11, 84 and 85 of the *Construction Occupations (Licensing) Act 2004*, electrical wiring work was required to be undertaken by a licensed electrician.

Delivery of the light rail stage 1 project determined that electrical infrastructure associated with the project was of a unique, purpose-built, and large-scale nature. The electrical wiring work requirements of the ES Act such as inspection, testing and verification, which are undertaken after completion of the electrical works, did not align with the light rail project. These requirements are generally more suitable and applied to commercial and residential construction.

To reduce regulatory burden, the ES Act was amended to include a new section 62B which allows the Minister to exempt a regulated utility from the ES Act by disallowable instrument if the Minister is reasonably satisfied that –

- (a) the regulated utility is adequately regulated under another territory or Commonwealth law; and
- (b) the exemption does not increase the risk to public safety.

### UTR Act Adequate Regulatory Regime

The UTR Act provides a technical regulatory framework for regulated utilities in the Australian Capital Territory.

The regulated utility is required to comply with the requirements of the UTR Act regarding the design and construction of the regulated utility service as prescribed by the *Utilities (Technical Regulation) (Light Rail—Regulated Utility Service) Regulation 2016*.

The UTR Act provides a more robust and appropriate regulatory framework for regulating the light rail utility's electrical infrastructure. This is achieved through the application of an operating certificate regime and three technical codes:

- i. *Utilities (Technical Regulation) (Light Rail Regulated Utility (Electrical) Network Code) Approval 2021*
- ii. *Utilities (Technical Regulation) (Light Rail Regulated Utility (Electrical) Network Boundary Code) Approval 2024*
- iii. *Utilities (Technical Regulation) (Regulated Utility Coordination Code) Approval 2021*

These codes set out technical and operational requirements, including independent certification requirements, throughout the design, construction, testing and commissioning, augmentation, or expansion of the light rail network.

Under section 43 of the UTR Act, an unlicensed regulated utility is required to apply to the Technical Regulator for an operating certificate for the design and construction of the regulated utility service.

Independent certification is to be performed by an Independent Electrical Certifier to ensure the regulated utility service is compliant with the approved design and applicable legislation. The independent certification arrangement under the codes enables ongoing and increased level of oversight during the construction phase of the regulated utility service, including testing and commissioning phases, ensuring the regulated utility service is compliant and safely delivered.

In addition, the codes clearly establish a requirement for one (or more) Electrical Supervisor(s) to be appointed who hold an ‘unrestricted’ electrician licence under the *Construction Occupations (Licensing) Act 2004*.

Exempting the regulated utility responsible for the design and construction of the regulated utility service from the ES Act will not impose any additional risks to public safety. The UTR Act and applicable technical codes ensure there is no regulatory gap by establishing clear requirements around the safety of electrical wiring work on electrical infrastructure.

## **Regulatory Impact Statement**

A Regulatory Impact Statement for the instrument is not required in accordance with section 34(1) of the *Legislation Act 2001*, as the instrument is not likely to impose appreciable costs on the community, or part of the community. Further, a Regulatory Impact Statement is unnecessary in accordance with section 36(1)(b) of the *Legislation Act 2001* as this instrument does not adversely affect a person’s rights or impose liabilities on a person.

## **Human Rights and Scrutiny of Committee Terms of Reference**

The instrument does not engage or limit any person’s human rights. The instrument is consistent with the Legislative Assembly’s Standing Committee of Justice and Community Safety (Legislative Scrutiny Role) Committee’s Guide and Terms of Reference. In this case, no human rights are impacted. In particular, the instrument:

- is made under a ministerial power found in the Act;
- is in accordance with the general objects of the Act under which the instrument is made;
- does not unduly trespass on rights previously established by law; and
- does not make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions.