

Electricity and Other Legislation (Batteries and Premium Feed-in Tariff) Amendment Bill 2018

Explanatory Notes

Short title

The short title of the Bill is the Electricity and Other Legislation (Batteries and Premium Feed-in Tariff) Amendment Bill 2018.

Policy objectives and the reasons for them

The policy objectives of the Bill are to amend the *Electricity Act 1994* (Electricity Act), the *Energy and Water Ombudsman Act 2006* (Energy and Water Ombudsman Act) and the *National Energy Retail Law (Queensland) Act 2014* (the NERLQ Application Act) to:

1. clarify when additional generation systems and electricity storage devices can be deployed in association with the Solar Bonus Scheme;
2. enable the effective implementation of a new national regulatory framework for retail competition in embedded electricity networks which commenced on 1 December 2017; and
3. allow residential and small business customers in regional Queensland to have the option to return to Ergon Retail, if at a property that has switched to a private retailer.

Solar Bonus Scheme

The Solar Bonus Scheme offers eligible small electricity customers a premium feed-in tariff of 44 cents per kilowatt-hour (c/kWh) for surplus electricity generated by eligible solar photovoltaic (PV) systems and exported into the electricity grid. Since its introduction in 2008, the Solar Bonus Scheme has helped over 280,000 Queensland homes and small businesses to install solar PV systems and has been instrumental in building the Queensland solar industry. There are currently around 240,000 Solar Bonus Scheme customers.

The Queensland Government is committed to retaining the Solar Bonus Scheme for customers who continue to meet eligibility requirements. The Queensland Government is also committed to enabling the installation of more solar PV and other new energy technologies, such as batteries, and recognises that both technologies will be central to Queensland's future energy mix. Rapidly falling prices for these technologies is fuelling interest from customers to take more control over their energy use.

However, the current Solar Bonus Scheme rules do not anticipate the availability of these technologies and do not specifically address their use. This has created ambiguity for customers who may be interested in additional generation or storage, but are reluctant to risk their eligibility for the Solar Bonus Scheme feed-in tariff.

It is important that the Government set the right conditions to create opportunities for the installation of new solar PV and batteries without adding to the cost of the Solar Bonus Scheme. This Bill aims to give certainty to Solar Bonus Scheme customers about how they can install and operate additional solar PV and/or batteries without affecting their Solar Bonus Scheme eligibility. This will give Solar Bonus Scheme customers the necessary confidence to invest in new technology, assured that they can continue to receive the 44c/kWh feed-in tariff as long as they remain eligible.

Regulatory Arrangements for Competition in Embedded Networks

The Queensland Government committed to providing competition to customers within embedded networks when a nationally consistent approach for embedded networks was developed and incorporated into the National Electricity Rules (NER).

As part of the Australian Energy Market Commission's Power of Choice Review reform program, the Embedded Networks Rule directly contributes to this commitment by making changes to the NER that aim to reduce the barriers to embedded network customers from choosing the products, services and provider of retail services that suit them best.

Under the National Electricity Law, applied in Queensland by the *Electricity—National Scheme (Queensland) Act 1997*, the NER have the force of law in this jurisdiction. Accordingly, amendments to those rules providing for the reform of arrangements regarding competition in embedded networks will come into force without the need for any Queensland-specific legislative amendment. However, amendments to Queensland legislation are required to avoid any conflict with the implementation of this major national reform in Queensland.

Removal of Non-reversion Policy for Small Customers

The Queensland Government is committed to delivering stable electricity prices for all Queenslanders. The removal of the 'non-reversion policy' aligns with that commitment and is a key initiative of the Queensland Government's Affordable Energy Plan which was announced in October 2017 and is aimed at making electricity more affordable for household and small business customers.

The Queensland Government introduced the non-reversion policy over ten years ago, to encourage retail competition by preventing customers in regional Queensland that switch to another retailer from returning to the non-competing government-owned retailer, Ergon Retail. Because this policy applies to properties, new occupants are also unable to be Ergon Retail customers if the previous occupant switched to a private retailer.

This policy has delivered mixed results in terms of increasing retail competition in regional Queensland.

The Queensland Competition Authority advises that as of June 2016, around 38 per cent of large and very large customers in Ergon's area had switched to a private retailer. In Ergon's network east pricing zone, transmission region one (effectively the area along the Queensland coastline) the figures are higher, with more than 50 per cent of large and 76 per cent of very large customers having switched to a private retailer at June 2016.

In comparison, less than one percent of residential and small business customers have switched to a private retailer.

Achievement of policy objectives

Solar Bonus Scheme

To achieve its objectives in relation to the Solar Bonus Scheme, the Bill amends the Electricity Act to clarify the specific circumstances in which Solar Bonus Scheme customers will not be permitted to use additional generation and electricity storage devices. This will give certainty to Solar Bonus Scheme customers who may wish to install new technology, while limiting the potential cost impact of new technology on the Solar Bonus Scheme if left unaddressed.

The proscribed circumstances are:

- installation of additional generation systems and/or electricity storage devices in a way that enables the system and/or device to supply energy to the premises at the same time the Solar Bonus Scheme qualifying generator is operating;
- installation of additional generation systems and/or electricity storage devices in a way that allows them to export electricity to the network; and
- the practice of 'oversizing' existing Solar Bonus Scheme qualifying generators.

Other uses are permitted.

These amendments align with the intent of the Solar Bonus Scheme, which was that generation from a qualifying generator would be used in customers' homes and businesses first with any excess beyond normal consumption to be exported. The approach in the Bill balances the Government's commitment to Solar Bonus Scheme customers to retain the 44c/kWh feed-in tariff, while supporting the deployment of new energy technologies, minimising compliance costs, and limiting the potential for Solar Bonus Scheme costs to rise.

Regulatory Arrangements for Competition in Embedded Networks

To achieve its objectives of avoiding any conflict with the implementation of the Embedded Networks Rule, which commenced on 1 December 2017, the Bill amends the Electricity Act to remove the former restriction placed on 'receivers' having to connect to the local distribution network in order to access retail market offers from an authorised retailer.

The Bill also amends the Energy and Water Ombudsman Act to enable embedded network customers who choose a retailer to access the Queensland Energy and Water Ombudsman's dispute resolution services, as other retail customers can.

The approach to achieving the policy objective is appropriate and reasonable. Removing the former restriction on receivers to cost effectively purchase electricity from a chosen retailer will avoid any inconsistency with the Embedded Networks Rule, and provide a national harmonised framework for facilitating access to retail competition for customers in embedded networks.

Removal of Non-reversion Policy for Small Customers

To achieve its objectives of allowing small customers in regional Queensland to have the option of returning to Ergon Retail, the Bill amends the NERLQ Application Act, which applies the National Energy Retail Law (Queensland) as a law of Queensland.

Under the National Energy Retail Law (Queensland), Ergon Retail can only supply customer retail services to customers at premises for which Ergon Retail is the financially responsible retailer. The Bill removes this restriction for small customers. This will allow Ergon Retail to offer to supply customer retail services to small customers who are currently supplied by another retailer.

The amendments do not disturb the non-reversion policy for large customers, which has proved very successful for encouraging retail competition in regional Queensland.

Alternative ways of achieving policy objectives

Solar Bonus Scheme

Several options were considered to achieve the policy objective. However, these were ruled out due to administrative cost and complexity.

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation excluded the proposed amendments from further regulatory impact assessment. The exclusion was made on the basis the proposal would reduce cost risks, and had already undergone extensive impact assessment, which informed the development of policy options.

Regulatory Arrangements for Competition in Embedded Networks

There is no alternative way to achieve the desired policy objectives.

Removal of Non-reversion Policy for Small Customers

There is no alternative way to achieve the desired policy objectives.

Estimated cost for government implementation

Solar Bonus Scheme

There is no direct cost to the State Government in relation to the implementation of the Bill. Enforcing compliance with the clarified provisions will fall on Queensland's electricity distribution businesses as part of their existing Solar Bonus Scheme compliance activity. The electricity distribution businesses have agreed to adopt a pragmatic approach to compliance e.g. to allow like for like replacements in warranty situations where original panel sizing is no longer available.

Regulatory Arrangements for Competition in Embedded Networks

There is no direct cost to the State Government in relation to the amendments in the Bill. The Energy and Water Ombudsman is industry funded and will recover any expected additional costs associated with an increase in the number of customers who will become eligible to access the scheme, via participation and user-pays fees obtained from scheme participants.

Removal of Non-reversion Policy for Small Customers

The estimated net cost to Government if all small customers currently supplied by privately owned retailers chose to return to Ergon Retail is around three to five million per annum over three years (\$15 million in total). This cost was factored into the budget for the Queensland Government's Affordable Energy Plan, which will be funded from the dividends of the state owned electricity entities.

The actual cost to Government of removing the non-reversion policy for small customers may vary depending on the way network tariffs are set and the calculation of the community service obligation (CSO). The CSO is a mechanism to support the Government's Uniform Tariff Policy, which the Queensland Competition Authority is required to consider in its annual regulated price determination for regional Queensland. Under the Uniform Tariff Policy, regulated prices for regional customers reflect the cost of supplying equivalent customers in South East Queensland (small customers) or the east zone of the Ergon Energy network (large customers), rather than the actual cost of supply. The Government pays a subsidy (the CSO) to Ergon Retail to cover the additional cost of providing electricity at the regulated prices.

Consistency with fundamental legislative principles

This Bill has been examined for compliance with, and drafted with regard to, the fundamental legislative principles, outlined in section 4 of the *Legislative Standards Act 1992 (Qld)* (LSA), and potential breaches of fundamental legislative principles were identified. These are addressed as follows.

Legislation should have sufficient regard to the rights and liberties of individuals – LSA section 4(2)(a)

Clause 2 – Commencement

Clause 2 of the Bill proposes to commence amendments relating to the Solar Bonus Scheme retrospectively from the date of introduction into the Legislative Assembly.

This may potentially breach the principle that legislation has sufficient regard to rights and liberties of individuals. A consideration in determining this is whether the legislation adversely affects rights and liberties, or imposes obligations, retrospectively: s4(3)(g) LSA.

The proposed changes to the Solar Bonus Scheme may adversely affect, in some cases, the rights of certain individuals, being Solar Bonus Scheme customers who may have been considering whether to:

- 'oversize' their Solar Bonus Scheme qualifying generator, or
- install additional generators and/or electricity storage devices in a way that could boost the premium feed in tariff payments they receive under the Solar Bonus Scheme.

To minimise the potential impact on those customers, the Minister for National Resources, Mines and Energy is publicly announcing the proposal on the date of introduction. The Bill also protects Solar Bonus Scheme customers who have already installed, or have entered into contracts to purchase, additional generation capacity or batteries, prior to the date of the announcement.

This approach reduces the potential negative impacts from retrospective legislation on individual rights by preserving the rights of individuals who have made investments, or have contracted to invest, in equipment under the legislation in place at the time of introduction, while minimising the opportunities for customers to unfairly profit from ambiguity in the legislation.

Clause 5 - Amendment of s44A (Additional condition to allow credit for electricity produced by small photovoltaic generators)

Clause 5 of the Bill proposes restricting Solar Bonus Scheme customers from: 'oversizing' their Solar Bonus Scheme qualifying generators, or installing additional generators and/or electricity storage devices in a way that could boost the premium feed in tariff payments they receive under the Solar Bonus Scheme. Should a customer undertake one of these activities, they will lose eligibility to receive the Solar Bonus Scheme premium feed-in tariff payment. This may potentially breach the principle that legislation has sufficient regard to the rights and liberties of individuals.

At present, the Solar Bonus Scheme rules do not anticipate the availability of these technologies and do not address their use. While customers undertaking these activities are generally not eligible for premium feed-in tariff payments in relation to energy generated from a secondary generation system or electricity storage device, they will not necessarily lose eligibility for scheme payments in relation to legitimate exports from their qualifying generator.

However, given technical limitations it is in practice very difficult to determine whether an exported electron has come from a Solar Bonus Scheme qualifying generator, or an additional generator/storage device, particularly if these are operating concurrently. Ambiguity around this creates uncertainty for distribution businesses who are liable for payment, and customers trying to comply with the

rules. In addressing this ambiguity and setting clear boundaries for what is not permissible, the clause gives sufficient regard to the rights of individuals.

Consultation

Solar Bonus Scheme

Throughout the development of the proposal in 2016, officers from the former Department of Energy and Water Supply consulted confidentially with a number of major stakeholders in the Queensland electricity market. These were Energex, Ergon Energy, AGL, Origin Energy and Lumo/Red Energy.

The Public Works and Utilities Committee of the 55th Parliament publicly consulted on provisions substantively similar to those included in this Bill as part of its examination of the lapsed Electricity and Other Legislation (Batteries and Premium Feed-in Tariff) Amendment Bill 2017. Report 44 of the Committee (August 2017) outlined the outcomes of this consultation. It noted that while a number of submitters supported the intent of the amendments, others raised concerns. These related to:

- degradation: concern the provisions would prevent customers installing extra generation or storage to overcome panel degradation;
- inconsistency with other objectives: concern that by limiting the circumstances in which Solar Bonus Scheme customers can use extra generation and storage, the proposal will reduce opportunities for demand response and virtual batteries;
- oversizing: concern from a technical efficiency perspective, as well as concern about the impact on customers seeking to replace panels where the original panel size is no longer available;
- remaining cost impact: concern that the provisions do not sufficiently contain the cost impacts of the Solar Bonus Scheme, by e.g. allowing any additional generation and storage at all, and by not bringing forward the end date of the scheme.

These submissions highlight the inherent difficulties of balancing Solar Bonus Scheme cost impacts with the desire to help Solar Bonus Scheme customers take advantage of new technologies. The balance as struck in the Bill will permit additional generation and storage, recognising that some Solar Bonus Scheme customers will want to install these. However, the Bill restricts the way in which installations are made so that new generation and storage cannot be installed in a way that would allow energy generated from those technologies to be effectively paid for by the Solar Bonus Scheme. This recognises the importance of constraining scheme costs.

In relation to concerns with oversizing, particularly in warranty situations, the Department of Natural Resources, Mines and Energy has worked with the Master Electricians Australia and distribution businesses to agree a pragmatic approach to compliance. This recognises the intent that customers be able to replace panels on a like for like basis.

The Committee Report recommended that the amendments in the Bill relating to the Solar Bonus Scheme be passed.

Regulatory Arrangements for Competition in Embedded Networks

The Queensland Government released a discussion paper canvassing the major market and regulatory challenges associated with electricity supply in embedded networks, with a particular focus on addressing consumer protection and introducing competition in the marketplace. In addition, the former Department of Energy and Water Supply held a targeted stakeholder workshop to explore the impacts of the Embedded Networks Rule change proposal and subsequently released a further discussion paper to stakeholders to explore the potential impacts, benefits and technical issues associated with introducing retail competition in embedded networks.

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation confirmed that the embedded networks proposal is excluded from the Regulatory Impact Statement (RIS) process on the grounds that the Embedded Networks Rule has undergone an extensive consultation and impact assessment which is comparable to the requirements of the RIS system.

The Public Works and Utilities Committee of the 55th Parliament also publicly consulted on provisions substantively similar to those included in this Bill as part of its examination of the lapsed Electricity and Other Legislation (Batteries and Premium Feed-in Tariff) Amendment Bill 2017. Report 44 of the Committee (August 2017) outlined the outcomes of this consultation and recommended that the amendments in the Bill relating to the regulatory arrangements for competition in embedded networks be passed.

Removal of Non-reversion Policy for Small Customers

Over the last ten years, regional customers and advocates, including members of parliament, have raised concerns regarding the non-reversion policy. In particular, concerns were raised that the policy limits options for residential and small business customers, and that it is unfair for new occupants of a property to not have the option to be an Ergon Retail customer where a previous occupant had switched to a market contract. Similar concerns were also raised during consultation conducted by the Queensland Productivity Commission (QPC) during its Electricity Pricing Inquiry. In its final report (May 2016), the QPC identified removing this policy as one measure for increasing regional retail competition.

Consistency with legislation of other jurisdictions

Solar Bonus Scheme

This aspect of the Bill is specific to the State of Queensland, and is not uniform with or complementary to legislation of the Commonwealth or another state. The treatment of additional generators and batteries in the solar feed-in tariff schemes in other jurisdictions varies widely. Queensland's approach seeks to balance the needs of Solar Bonus Scheme customers with its commitment to support the installation of new energy technologies in Queensland.

Regulatory Arrangements for Competition in Embedded Networks

The amendment of existing legislation will mean that Queensland will be consistent with the NER, which have the force of law in this jurisdiction. Currently Victoria, New South Wales, South Australia and the Australian Capital Territory have regulatory frameworks that allow for embedded network customers to access retail market offers. However, upon commencement of the Embedded Networks Rule on 1 December 2017, these jurisdictions have transitioned to the new framework as the NER also have the force of law in these jurisdictions.

Removal of non-reversion policy for small customers

The non-reversion policy is a Queensland specific provision in the National Energy Retail Law (Queensland). Removal of the non-reversion policy for small customers increases alignment with the National Energy Retail Law.

Notes on provisions

Part 1 Preliminary

1 Short Title

Clause 1 states that this Act, if enacted, will be cited as the *Electricity and Other Legislation (Batteries and Premium Feed-in Tariff) Amendment Act 2018*.

2 Commencement

Clause 2 states that the Bill will be implemented in two stages. The amendments to the Electricity Act implementing changes to the Solar Bonus Scheme will be taken to have come into effect from the date the Bill is introduced into Parliament. These are the amendments in Part 2 of the Bill, other than sections 4 and 7. The remaining provisions will commence on assent.

Part 2 Amendment of Electricity Act 1994

3 Act amended

Clause 3 states that Part 2 of the Bill amends the Electricity Act.

4 Amendment of s 23 (Customers and their types)

Clause 4 omits section 23(2) of the Electricity Act. Section 23(2) restricts the circumstances in which a receiver will be considered a customer for the purposes of the Electricity Act. Omission of this restriction is needed to ensure consistency with the National Energy Retail Law (Queensland).

Clause 4(2) renumbers section 23(3) to (5) of the Electricity Act as section 23(2) to 23(4).

5 Amendment of s 44A (Additional condition to allow credit for electricity produced by small photovoltaic generators)

Clause 5 makes a number of amendments to section 44A of the Electricity Act. Section 44A is the main enabling provision for the Solar Bonus Scheme.

Clause 5(1) omits the term 'a premises' in section 44A(1) and inserts 'premises' to reflect current drafting practice.

Clause 5(2) corrects a drafting error in section 44A(1)(b)(i).

Clause 5(3) inserts new subsections (1A) and (1B) into section 44A of the Electricity Act.

Section 44A(1A) establishes that a customer stops being entitled to receive the Solar Bonus Scheme 44c/kWh feed-in tariff from their distributor if they act in any of three ways:

- i) add generation capacity to their qualifying generator which exceeds the output of their system's inverter (i.e. oversize);
- ii) install a battery which can be used at the same time as the qualifying generator is generating or is able to export energy to the supply network;
or
- iii) install an additional generation system which can be used at the same time the qualifying generator is generating or is able to export energy to the supply network.

Under section 44A(1A)(a), Solar Bonus Scheme customers will lose eligibility if they add additional generation capacity (i.e. extra solar panels) to their existing Solar Bonus Scheme qualifying generator if the total peak combined output of the panels is greater than the rated output of their system's inverter as approved by their distributor. For example:

- a Solar Bonus Scheme customer has a solar power system with an inverter with a rated output of 2 kilowatts (kW), but has installed six panels each with a peak capacity of 250 watts (W): a total peak generation capacity of 1500W, or 1.5kW. The customer may add an additional 500W of generation capacity (i.e. 2 x 250W panels) and remain eligible for the Solar Bonus Scheme. However, if the customer adds more than 500W of extra capacity, (i.e. three or more panels) they would become ineligible for the Solar Bonus Scheme.
- a Solar Bonus Scheme customer has a solar power system with an inverter with a rated output of 5 kW, but has installed 16 panels each with a peak capacity of 250W: a total peak generation capacity of 4000W, or 4kW. The customer may add an additional 1kW of generation capacity (i.e. 4 x 250W panels) and remain eligible for the Solar Bonus Scheme. However, if the customer adds more than 1kW of extra capacity, (i.e. more than 4 x 250W panels) they would become ineligible for the Solar Bonus Scheme.

Under section 44A(1A)(b), Solar Bonus Scheme customers will lose eligibility if they install a battery (or similar) on the same electrical installation as their qualifying generator, and the battery is installed in a way that allows it to:

- supply electricity to the electrical installation at the same time as the qualifying generator, or
- export electricity to the grid.

Under section 44A(1A)(c), Solar Bonus Scheme customers will lose eligibility if they install an additional generator, such as an additional solar PV system, a wind turbine, or a liquid fuel generator (e.g. diesel), on the same electricity installation as their qualifying generator, and the additional generator is installed in a way that allows it to:

- supply electricity to the electrical installation at the same time as the qualifying generator, or
- export electricity to the grid.

These conditions in (b) and (c) apply regardless of whether or not electricity is being exported from the qualifying generator to the grid.

For clarity, customers may install an additional generator or battery and remain eligible for the Solar Bonus Scheme as long as the additional generator or battery:

- is attached to an electrical installation which is different to the one that their Solar Bonus Scheme qualifying generator is attached to; or
- is attached to the same electrical installation as their Solar Bonus Scheme qualifying generator, but installed in a way that prevents it from
 - supplying electricity to the grid; and
 - supplying electricity to the installation while the qualifying generator is generating.

This means that customers may:

- install an additional generator which only supplies the home or business at night, and remain eligible for the Solar Bonus Scheme;
- install a battery which only supplies the home or business at night, and remain eligible for the Solar Bonus Scheme;
- install an additional generator which supplies a separate structure which is not connected to the part of the home or business which is also supplied by the qualifying generator (e.g. a shed).

Section 44A(1B) explains that if a customer breaches any of the conditions in section 44A(1A), then the distributor is no longer obliged to pay the customer the Solar Bonus Scheme feed-in tariff of 44c/kWh for any excess electricity exported to the grid.

Clause 5(4) inserts new subsection (6) which includes three new definitions for subsection (1A).

The term *approved total rated inverter capacity* referred to in subsection (1A) paragraph (a) means the capacity of the inverter for the customer's qualifying generator which was approved by the customer's distributor and which is stated in the customer's Inverter Energy System connection agreement.

The term *electricity storage device* is defined to mean equipment which can store energy and release that stored energy as electricity – e.g. a battery.

The term *supply interruption* refers to any interruption in the supply of electricity to a customer from the electricity grid. Examples of interruptions include, but are not limited to, unplanned power outages such as blackouts due to storm damage, and planned outages due to network maintenance activity.

6 Insertion of new chapter 14, part 18 - Transitional provision for Electricity and Other Legislation (Batteries and Premium Feed-in Tariff) Amendment Act 2018

Clause 6 inserts a new part 18 into chapter 14.

New section 360 explains the application of the revised section 44A.

Section 360(1) explains that the new provisions in subsections 44A(1A), (1B) and (6) as outlined in clause 5 of this Bill will apply to all customers who are eligible to receive the Solar Bonus Scheme, regardless of when their qualifying generator was installed. This means that the new provisions will apply to Solar Bonus Scheme customers who installed, or received approval to install, their qualifying generator before 8 June 2011 to whom section 328 applies, as well as customers who installed their qualifying generator before 30 June 2013.

Section 360(2) contains an exemption from the application of the new section 44A(1A)(a) for Solar Bonus Scheme customers who have, before the date of commencement of the Bill, already oversized their qualifying generator.

Section 360(3) contains an exemption from the application of the new section 44A(1A)(b) for Solar Bonus Scheme customers who have, before the date of commencement of the Bill, already either installed or contracted with a supplier to install a battery in a way that would otherwise be prohibited by new section 44A(1A)(b).

Section 360(4) contains an exemption from the application of the new section 44A(1A)(c) for Solar Bonus Scheme customers who have, before the date of commencement of the Bill, already either installed or contracted with a supplier to install an additional generator in a way that would otherwise be prohibited by new section 44A.

7 Amendment of schedule 5 (Dictionary)

Clause 7(1) omits the reference to section 23(5) in the definition of an ‘excluded customer’ and inserts a reference to section 23(4). This is a consequential change due to the renumbering of section 23 of the Electricity Act in clause 4 of this Bill.

Clause 7(2) omits the reference to section 23(3) in the definition of ‘large customer’ and inserts a reference to section 23(2). This is a consequential change due to the renumbering of section 23 of the Electricity Act in clause 4 of this Bill.

Clause 7(3) omits the reference to section 23(4) in the definition of ‘small customer’ and inserts a reference to section 23(3). This is a consequential change due to the renumbering of section 23 of the Electricity Act in clause 4 of this Bill.

Part 3 Amendment of Energy and Water Ombudsman Act 2006

8 Act amended

Clause 8 states that Part 3 amends the *Energy and Water Ombudsman Act 2006*.

9 Amendment of s 6 (Who is a small customer (energy))

Clause 9 omits section 6(4) of the Energy and Water Ombudsman Act. Section 6(4) declared that the term ‘small customer (energy)’ does not include a person who, under an energy Act, is a ‘receiver’ of an ‘on-supplier’. Omission of this section is needed to ensure consistency with new wording in section 6D (see Clause 10).

10 Amendment of s 6D (Who is a relevant energy customer)

Clause 10 inserts a new sub-section (2) to clarify that a 'receiver' of an 'on-supplier' under an energy Act is not a 'relevant energy customer' in relation to the premises, unless the 'receiver' is also a small customer under an energy Act, or an eligible non-residential energy customer. This means that only a 'relevant energy customer' is eligible to access the energy and water ombudsman scheme.

11 Amendment of s 12 (Restrictions on functions – energy entities)

Clause 11(1) inserts a new paragraph (ca) to state that disputes between a 'small customer' under an energy Act, or an eligible non-residential energy customer, and an 'on-supplier' are restricted functions placed on the Energy and Water Ombudsman.

Clause 11(2) makes consequential renumbering changes.

Part 4 Amendment of National Energy Retail Law (Queensland) Act 2014

12 Act amended

Clause 12 states that Part 4 amends the *National Energy Retail Law (Queensland) Act 2014*.

13 Amendment of schedule (Modification of application of National Energy Retail Law)

Clause 13(1) makes a consequential amendment to the National Energy Retail Law (Queensland) resulting from amendments proposed in clause 4 of this Bill. Clause 13(1) omits a reference to section 23(5) of the Electricity Act (in inserted section 19A(2)) and replaces it with a reference to section 23(4) of the Electricity Act.

Clause 13(2) omits section 19C(1)(b)(ii) and inserts wording that largely replicates the existing provision, except for adding 'if a customer is a large customer'. The effect of the amendment is to limit the restriction contained in section 19C(1)(b)(ii) so that it only applies in relation to large customers. The result is that, for premises where a connection already exists, an assigned retailer (such as Ergon Retail) cannot provide customer retail services to a large customer if a different retailer has become financially responsible for the premises. The same restriction will not apply in relation to small customers at premises for which a different retailer is financially responsible, though the assigned retailer would still need to be the local area retailer for the relevant geographical area, premises or customer in order to provide customer retail services (section 19C(1)(b)(i)).