



Queensland

National Energy Retail Law (Queensland) Bill 2014

Includes amendments agreed during Consideration



Queensland

National Energy Retail Law (Queensland) Bill 2014

Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
3	Interpretation	6
Part 2	Adoption of National Energy Retail Law	
4	Application of National Energy Retail Law	7
5	Application of regulations under National Energy Retail Law.	7
6	Interpretation of particular expressions	8
7	Exclusion of legislation of this jurisdiction and South Australia	8
8	Tabling of national instruments enacted or made after commencement	9
Part 3	Related matters	
9	Conferral of functions and powers on Commonwealth bodies to act in this jurisdiction	9
10	Extension of reading-down provision	10
11	Regulation-making power for the National Energy Retail Law (Queensland)	10
Part 4	Miscellaneous	
12	Modification regulation-making power	10
13	Validation of instruments and decisions made by AER	12
14	Authorisation of preparatory steps by AER	13
15	Review	14
Part 5	Transitional provisions	
16	Definitions for pt 5.	15
17	Exempt sellers under the NER Regulations (Qld)	15
18	Other exempt sellers	16

Contents

19	Customer retail contracts—standard retail contracts for small customers	17
20	Customer retail contracts—negotiated retail contracts for small customers	18
21	Customer retail contracts—standard retail contracts between particular small customers and Origin Energy	19
22	Customer retail contracts—standard retail contracts for particular large customers	19
23	Customer retail contracts—standard retail contracts between particular large customers and Origin Energy	21
24	Payment plans	21
25	Customer connection contracts—standard connection contracts	22
26	Customer connection contracts—negotiated connection contracts for small customers.	23
27	Customer connection contracts—negotiated connection contracts for large customers	23
28	Provision of information and assistance by Queensland regulator	24
29	Transitional regulation-making power	25
Part 6	Amendment of Acts	
Division 1	Amendment of this Act	
30	Act amended	25
31	Amendment of long title	26
Division 2	Amendment of Electricity—National Scheme (Queensland) Act 1997	
32	Act amended	26
33	Amendment of s 6 (Application in Queensland of National Electricity Law)	26
34	Insertion of new s 6A	26
	6A Application of National Energy Retail Law amendments	26
35	Insertion of new pt 4 hdg	27
36	Insertion of new ss 12–14	27
	12 Regulation-making power for the National Electricity (Queensland) Law	27
	13 Validation of instruments and decisions made by AER	27
	14 Authorisation of preparatory steps by AER	29
Division 3	Amendment of National Gas (Queensland) Act 2008	
37	Act amended	30

38	Amendment of s 7 (Application in Queensland of National Gas Law)	30
39	Insertion of new s 7A	30
	7A Application of National Energy Retail Law amendments	30
40	Replacement of s 16 (Regulation-making power)	31
	16 Regulation-making power for the National Gas (Queensland) Law	31
	16A Validation of instruments and decisions made by AER	31
	16B Authorisation of preparatory steps by AER	33
Schedule	Modification of application of National Energy Retail Law ..	35

2014

A Bill

for

An Act to establish a national energy customer framework for the regulation of the retail supply of energy to customers, to make provision for the relationship between the distributors of energy and the consumers of energy, to amend this Act, the *Electricity—National Scheme (Queensland) Act 1997* and the *National Gas (Queensland) Act 2008* for particular purposes, and for other purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *National Energy Retail Law (Queensland) Act 2014*.

2 Commencement

- (1) This Act commences on a day or days to be fixed by proclamation.
- (2) Different days may be appointed under subsection (1) for the commencement of different provisions of the National Energy Retail Law set out in the Schedule to the South Australian Act.

3 Interpretation

- (1) In this Act—

commencement, for part 5, see section 16.

Electricity Act, for part 5, see section 16.

Gas Supply Act, for part 5, see section 16.

National Energy Retail Law (Queensland) or *NERL (Qld)* means the provisions applying in Queensland because of section 4.

National Energy Retail Regulations (Queensland) or *NER Regulations (Qld)* means the provisions applying in Queensland because of section 5.

National Energy Retail Rules or *Rules* has the meaning given by the National Energy Retail Law (Queensland).

retailer, for part 5, see section 16.

[s 6]

- (b) as so applying may be referred to as the National Energy Retail Regulations (Queensland).

6 Interpretation of particular expressions

In the National Energy Retail Law (Queensland) and the National Energy Retail Regulations (Queensland)—

National Energy Retail Law or *this Law* means the National Energy Retail Law (Queensland).

this jurisdiction means Queensland.

7 Exclusion of legislation of this jurisdiction and South Australia

- (1) The following Acts of this jurisdiction do not apply to the National Energy Retail Law (Queensland) or to the instruments made under that Law—
 - (a) the *Acts Interpretation Act 1954*;
 - (b) the *Statutory Instruments Act 1992*.
- (2) To remove any doubt, it is declared that—
 - (a) subsection (1)(a) does not limit the application of the *Acts Interpretation Act 1954* to this Act or to instruments made under this Act; and
 - (b) subsection (1)(b) does not limit the application of the *Statutory Instruments Act 1992* to instruments made under this Act.
- (3) The *Acts Interpretation Act 1915*, and other Acts, of South Australia do not apply to—
 - (a) the National Energy Retail Law set out in the Schedule to the South Australian Act in its application as a law of Queensland; or
 - (b) the regulations in force for the time being under the National Energy Retail Law set out in the Schedule to the South Australian Act in their application as

regulations in force for the purposes of the National Energy Retail Law (Queensland).

8 Tabling of national instruments enacted or made after commencement

- (1) This section applies to any of the following instruments enacted or made after the commencement of this section—
 - (a) an Act amending the National Energy Retail Law;
 - (b) a regulation made under the National Energy Retail Law;
 - (c) an instrument amending the National Energy Retail Rules.
- (2) The instrument must be tabled in the Legislative Assembly within 10 sitting days after it is enacted or made.
- (3) However failure to comply with subsection (2) does not affect the application of the National Energy Retail Law or instruments made under it as part of the law of Queensland.
- (4) In this section—

National Energy Retail Law means the National Energy Retail Law set out in the Schedule to the South Australian Act.

Part 3 Related matters

9 Conferral of functions and powers on Commonwealth bodies to act in this jurisdiction

- (1) A Commonwealth body has power to do acts in or in relation to this State in the performance or exercise of a function or power expressed to be conferred on the Commonwealth body by the national energy retail legislation of another participating jurisdiction.

[s 10]

- (2) In this section—
Commonwealth body means—
- (a) the AER; or
 - (b) the Tribunal.

10 Extension of reading-down provision

- (1) Section 320 of the National Energy Retail Law (Queensland) has effect in relation to the operation of any provision of this Act as if the provision formed part of that Law.
- (2) Subsection (1) does not limit the effect that a provision of this Act would validly have apart from the subsection.

11 Regulation-making power for the National Energy Retail Law (Queensland)

The Governor in Council may make such regulations, including regulations constituting local instruments, as are contemplated as being made under this Act as the application Act of this jurisdiction by—

- (a) the National Energy Retail Law set out in the Schedule to the South Australian Act; or
- (b) the modifications of that Law set out in the schedule to this Act.

Part 4 Miscellaneous

12 Modification regulation-making power

- (1) The Governor in Council may, by regulation (a *modification regulation*), modify any of the following—
- (a) the National Energy Retail Law, as it applies as a law of Queensland;

-
- (b) the Regulations in force for the time being under the National Energy Retail Law, to the extent they apply as regulations in force for the purposes of the National Energy Retail Law (Queensland);
 - (c) the National Energy Retail Rules in force under the National Energy Retail Law, to the extent they apply as rules in force for the purposes of the National Energy Retail Law (Queensland).
- (2) However, a modification regulation—
- (a) may modify the Law mentioned in subsection (1)(a) only to make necessary or convenient changes, for giving effect to the operation of the Law in Queensland, arising from an amendment of the Law made after the commencement of this section; and

Editor's note—

See the NERL (Qld), section 8(3) and (4), as inserted by section 12 of the schedule to this Act, in relation to including editor's notes about modifications to the Law.

- (b) may modify the Regulations or Rules mentioned in subsection (1)(b) or (c) only for 1 or more of the following purposes—
 - (i) to make necessary or convenient changes for giving effect to the operation of the Regulations or Rules in Queensland;
 - (ii) to make necessary or consequential changes arising from the modification of the National Energy Retail Law;
 - (iii) for the Rules mentioned in subsection (1)(c)—to provide for matters of a savings or transitional nature for the transition from the operation of provisions of instruments under the *Electricity Act 1994* or *Gas Supply Act 2003* to the operation of provisions of the Rules.
- (3) Without limiting subsection (2)(b), a modification regulation that modifies the Regulations or Rules mentioned in subsection (1)(b) or (c) may nominate an entity (the

[s 13]

nominated entity) other than the AER to be the Regulator for the modification.

- (4) To the extent the AER would otherwise have had, but for subsection (3), a function or power under the NERL (Qld), the NER Regulations (Qld) or the Rules for monitoring, investigating or enforcing the modification, the nominated entity is taken to have the function or power.
- (5) A modification regulation must declare it is a modification regulation.
- (6) A provision of a modification regulation providing for a modification of the Law mentioned in subsection (1)(a)—
 - (a) may be made only within 3 months after the amendment of the Law to which the modification relates; and
 - (b) expires 1 year after its commencement.
- (7) In this section—

National Energy Retail Law means the National Energy Retail Law set out in the Schedule to the South Australian Act.

13 Validation of instruments and decisions made by AER

- (1) This section applies to an instrument or decision made by the AER if—
 - (a) the instrument or decision was made—
 - (i) at or after the time the South Australian Act was enacted; but
 - (ii) before the time (the *application time*) the National Energy Retail Law set out in the Schedule to the South Australian Act first started to apply under this Act as a law of Queensland; and
 - (b) had that Law started so to apply, the making of the instrument or decision would have been authorised by 1 of the following laws (the *authorising law*)—
 - (i) the National Energy Retail Law (Queensland);

- (ii) the National Energy Retail Regulations (Queensland);
 - (iii) this Act;
 - (iv) a regulation under this Act; and
 - (c) if the making of the instrument or decision would be so authorised subject to the satisfaction of any conditions or other requirements (for example, consultation or publication requirements)—the AER has done anything that would, if that Law had started so to apply, be required under the authorising law for the instrument or decision to be so authorised.
- (2) For the purposes of the authorising law—
- (a) the instrument or decision is taken to be valid; and
 - (b) the instrument or decision has effect from the application time—
 - (i) as varied, and unless revoked, by any other instrument or decision to which this section applies; and
 - (ii) subject to that law as so applying.
- (3) For this section—
- (a) guidelines are an example of an instrument; and
 - (b) the following are examples of decisions—
 - (i) appointments;
 - (ii) determinations;
 - (iii) approvals.

14 Authorisation of preparatory steps by AER

- (1) This section applies if—
- (a) the AER is required to do something (a *preparatory step*) before making a decision or making an instrument under 1 of the following (the *authorising law*)—

[s 15]

- (i) the National Energy Retail Law (Queensland);
 - (ii) the National Energy Retail Regulations (Queensland);
 - (iii) this Act;
 - (iv) a regulation under this Act; and
 - (b) the AER takes the preparatory step—
 - (i) at or after the time the South Australian Act was enacted; but
 - (ii) before the time the National Energy Retail Law set out in the Schedule to the South Australian Act first started to apply under this Act as a law of Queensland.
- (2) For the purposes of the authorising law, the AER is taken to have complied with the requirement to take the preparatory step.

15 Review

- (1) The Minister must review the operation of the National Energy Retail Law in Queensland no later than 1 January 2018.
- (2) The review—
 - (a) must focus on the impact of the National Energy Retail Law, including the modifications prescribed by regulation under section 12, on consumers of energy and whether the implementation of the Law has—
 - (i) resulted in increased efficiencies; or
 - (ii) adversely affected customer protection in pursuit of national consistency; and
 - (b) may address other matters the Minister considers appropriate.
- (3) The Minister may ask the Queensland Competition Authority to conduct the review on behalf of the Minister.

(4) The Minister must, as soon as practicable after the review is completed, table a report about the outcome of the review in the Legislative Assembly.

(5) In this section—

National Energy Retail Law means the National Energy Retail Law set out in the Schedule to the South Australian Act.

Queensland Competition Authority means the Queensland Competition Authority established under the *Queensland Competition Authority Act 1997*, section 7.

Part 5 Transitional provisions

16 Definitions for pt 5

In this part—

commencement means the day this section commences.

Electricity Act means the *Electricity Act 1994*.

Gas Supply Act means the *Gas Supply Act 2003*.

Origin Energy means Origin Energy Electricity Limited ACN 071 052 287.

retailer—

- (a) means a person who is a retailer under the NERL (Qld); and
- (b) includes an entity that, under the NER Regulations (Qld), is taken to be a retailer under the NERL (Qld).

17 Exempt sellers under the NER Regulations (Qld)

(1) This section applies to—

[s 18]

- (a) the exempt seller exemption that, under the NER Regulations (Qld), is taken to be held by the Maranoa Regional Council; and
 - (b) the exempt seller exemption that, under the NER Regulations (Qld), is taken to be held by the Western Downs Regional Council.
- (2) Each exempt seller exemption is, from the commencement until the AER varies or revokes the exemption, subject to the conditions prescribed by regulation under this Act.
- (3) The AER may, under the NERL (Qld), deal with an exempt seller exemption applying under subsection (2) in the same way the AER may, under that Law, deal with an exemption granted under section 110 of that Law.
- (4) In this section—
- exempt seller exemption* means an exemption under the NERL (Qld), Part 5, Division 6.

18 Other exempt sellers

- (1) On the commencement, each generation authority (retail) holder and each special approval (retail) holder is taken to hold an exemption for electricity for the NERL (Qld) (a *transitional exemption*).
 - (2) A transitional exemption stops applying 1 year after the commencement.
 - (3) In this section—
- generation authority (retail) holder* means the holder of a generation authority under the Electricity Act that, immediately before the commencement, authorised the sale of electricity.
- special approval (retail) holder*—
- (a) means the holder of a special approval under the Electricity Act that, immediately before the commencement, authorised the sale of electricity; but
 - (b) does not include—

- (i) Origin Energy in relation to special approval no. SA02/11; or
- (ii) the holder of licence no. 960, issued under the *Gladstone Power Station Agreement Act 1993*, section 13.

19 Customer retail contracts—standard retail contracts for small customers

- (1) This section applies if, immediately before the commencement, a small customer and a retailer were parties to a pre-NERL standard retail contract for the provision of customer retail services (the *relevant services*).
- (2) On the commencement, the pre-NERL standard retail contract is replaced with a contract between the small customer and retailer in the form of the retailer's NERL standard retail contract for the provision of the relevant services at—
 - (a) in the case of electricity—the retailer's standing offer prices; or
 - (b) in the case of gas—the tariffs and charges the retailer charged the customer for or in connection with the provision of the relevant services to the customer immediately before the commencement.
- (3) Subsection (2) applies despite the NERL (Qld), section 26, but otherwise the NERL (Qld) applies to the contract in the same way as it applies to a standard retail contract formed under the NERL (Qld).
- (4) In this section—

NERL standard retail contract, for a retailer, means—

 - (a) for premises at which customer retail services are provided other than by using a card-operated meter—the retailer's form of standard retail contract under the NERL (Qld), section 25; or
 - (b) for premises at which customer retail services are provided by using a card-operated meter—the retailer's form of standard retail contract under the NERL (Qld),

[s 20]

section 25 consistent with the model terms and conditions applying to standard retail contracts for selling electricity to a small customer using a card-operated meter.

Note—

See the NERL (Qld), section 60A for the model terms and conditions applying to standard retail contracts for selling electricity to a small customer using a card-operated meter.

pre-NERL standard retail contract means—

- (a) a standard retail contract or standard large customer retail contract under the Electricity Act as in force before the commencement; or
- (b) a standard retail contract under the Gas Supply Act as in force before the commencement.

20 Customer retail contracts—negotiated retail contracts for small customers

- (1) This section applies if, immediately before the commencement, a small customer and a retailer were parties to a pre-NERL negotiated retail contract.
- (2) On the commencement, the contract becomes a NERL market retail contract between the small customer and retailer on the terms and conditions of the contract immediately before the commencement.
- (3) However, if the terms and conditions of the pre-NERL negotiated retail contract are inconsistent with the minimum requirements set out in the Rules that are to apply in relation to the terms and conditions of market retail contracts, subsection (2) applies subject to the NERL (Qld), section 34(2).
- (4) The NERL (Qld) applies to the contract.
- (5) In this section—

NERL market retail contract means a market retail contract under the NERL (Qld), section 33.

pre-NERL negotiated retail contract means—

- (a) a negotiated retail contract under the Electricity Act as in force before the commencement; or
- (b) a negotiated retail contract under the Gas Supply Act as in force before the commencement.

21 Customer retail contracts—standard retail contracts between particular small customers and Origin Energy

- (1) This section applies if, immediately before the commencement, a small customer and Origin Energy were parties to an arrangement for the provision of customer retail services to the small customer's premises under special approval no. SA02/11.
- (2) The arrangement is, on the commencement, replaced with a contract between the small customer and Origin Energy in the form of Origin Energy's form of standard retail contract under the NERL (Qld), section 25 for the provision of the customer retail services at the retailer's standing offer prices.
- (3) Subsection (2) applies despite the NERL (Qld), section 26, but otherwise the NERL (Qld) applies to the contract in the same way as it applies to a standard retail contract formed under the NERL (Qld).

22 Customer retail contracts—standard retail contracts for particular large customers

- (1) This section applies if—
 - (a) for a large customer's premises, a retailer is—
 - (i) if there is no existing connection—the local area retailer for the relevant geographical area, premises or customer; or

Note—

See the NERL (Qld), section 11(3).

- (ii) if there is an existing connection (including where a connection alteration to an existing connection is

[s 22]

required)—the financially responsible retailer for the premises; and

- (b) immediately before the commencement, the large customer and the retailer were parties to a pre-NERL large customer standard retail contract for the provision of customer retail services to the premises (the *relevant services*).
- (2) If, on the commencement, the retailer is an assigned retailer, the pre-NERL large customer standard retail contract is replaced with a contract between the large customer and the retailer in the form of the retailer's NERL large customer standard retail contract for the provision of the relevant services at the retailer's notified prices.
- (3) Subsection (2) applies despite the NERL (Qld), section 64E, but otherwise the NERL (Qld) applies to the contract in the same way as it applies to a large customer standard retail contract formed under the NERL (Qld).
- (4) If, on the commencement, the retailer is not an assigned retailer, the pre-NERL large customer standard retail contract continues as a contract for the provision of the relevant services on the same terms and conditions applying immediately before the commencement.
- (5) In this section—

assigned retailer means an assigned retailer under the NERL (Qld), section 2(1).

NERL large customer standard retail contract, for an assigned retailer, means a contract in the form of the retailer's large customer standard retail contract under the NERL (Qld).

notified prices, for an assigned retailer, means the notified prices applying to the retailer under the Electricity Act, section 90(4).

pre-NERL large customer standard retail contract means a standard large customer retail contract under the Electricity Act as in force before the commencement.

23 Customer retail contracts—standard retail contracts between particular large customers and Origin Energy

- (1) This section applies if, immediately before the commencement, a large customer and Origin Energy were parties to an arrangement for the provision of customer retail services to the large customer's premises under special approval no. SA02/11.
- (2) The arrangement is, on the commencement, replaced with a contract between the large customer and Origin Energy in the form of Origin Energy's large customer standard retail contract under the NERL (Qld) for the provision of the customer retail services at the notified prices.
- (3) Subsection (2) applies despite the NERL (Qld), section 64N, but otherwise the NERL (Qld) applies to the contract in the same way as it applies to a large customer standard retail contract, formed under the NERL (Qld), for the supply of electricity on a distribution system of Essential Energy ABN 37 428 185 226.
- (4) In this section—
notified prices means the notified prices applying to Origin Energy under the Electricity Act, section 90(4).

24 Payment plans

- (1) This section applies to an instalment plan between a retailer and a residential customer entered into under an industry code and in effect immediately before the commencement (the *existing instalment plan*).
- (2) On the commencement, the existing instalment plan becomes a payment plan under the NERL (Qld), Part 2, Division 7.
- (3) In this section—
industry code means—
 - (a) an industry code under the Electricity Act as in force before the commencement; or

[s 25]

- (b) an industry code under the Gas Supply Act as in force before the commencement.

25 Customer connection contracts—standard connection contracts

- (1) This section applies if, immediately before the commencement, a customer who owns or occupies premises and a distributor were parties to a pre-NERL standard connection contract for the premises (the *relevant premises*).
- (2) On the commencement, the pre-NERL standard connection contract is replaced with a contract between the customer and distributor in the form of the distributor's NERL standard connection contract.

Note—

See the Electricity Act, section 346 for the connection of the premises.

- (3) The NERL (Qld) applies to the contract in the same way as it applies to a NERL standard connection contract for a distributor.
- (4) In this section—

NERL standard connection contract, for a distributor, means—

- (a) if the distributor has a deemed AER approved standard connection contract under the NERL (Qld), section 75 and the customer falls within at least 1 of the classes to which the contract applies—the form of the deemed AER approved standard connection contract; or
- (b) otherwise—the form of the distributor's deemed standard connection contract under the NERL (Qld), section 69.

pre-NERL standard connection contract means a standard connection contract under the Electricity Act as in force before the commencement.

26 Customer connection contracts—negotiated connection contracts for small customers

- (1) This section applies if, immediately before the commencement, a small customer and a distributor were parties to a pre-NERL negotiated connection contract.
- (2) On the commencement, the contract becomes a NERL negotiated connection contract on the terms and conditions of the contract immediately before the commencement.
- (3) The NERL (Qld), other than section 78(1) and (2), applies to the contract.
- (4) In this section—

NERL negotiated connection contract means a negotiated connection contract under the NERL (Qld), section 78.

pre-NERL negotiated connection contract means—

- (a) a negotiated connection contract under the Electricity Act as in force before the commencement; or
- (b) a connection contract under the Gas Supply Act as in force before the commencement.

27 Customer connection contracts—negotiated connection contracts for large customers

- (1) To remove any doubt, it is declared that the NERL (Qld) does not affect a pre-NERL negotiated connection contract entered into between a large customer and a distributor or any rights or liabilities accrued under it.
- (2) In this section—

pre-NERL negotiated connection contract means—

- (a) a negotiated connection contract under the Electricity Act as in force before the commencement; or
- (b) a connection contract under the Gas Supply Act as in force before the commencement.

[s 28]

28 Provision of information and assistance by Queensland regulator

- (1) Despite any other Act or law, a Queensland regulator is authorised, on its own initiative or at the request of the AER—
 - (a) to provide the AER with information (including information given in confidence) in the possession or control of the regulator reasonably required by the AER for this part or the NERL (Qld); and
 - (b) to provide the AER with other assistance reasonably required by the AER to perform a function, or exercise a power, under this part or the NERL (Qld).
- (2) Despite any other Act or law, a Queensland regulator may authorise the AER to disclose information provided under subsection (1) even if the information was given to the regulator in confidence.
- (3) Nothing done, or authorised to be done, by a Queensland regulator in acting under subsection (1) or (2)—
 - (a) constitutes a breach of, or default under, an Act or other law; or
 - (b) constitutes a breach of, or default under, a contract, agreement, understanding or undertaking; or
 - (c) constitutes a breach of a duty of confidence (whether arising by contract, in equity or by custom or in any other way); or
 - (d) constitutes a civil or criminal wrong; or
 - (e) terminates an agreement or obligation, or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy; or
 - (f) releases a surety or any other obligee wholly or in part from an obligation.
- (4) In this section—

Queensland regulator means—

- (a) the regulator under the Electricity Act; or
- (b) the regulator under the Gas Supply Act; or
- (c) the Queensland Competition Authority established under the *Queensland Competition Authority Act 1997*, section 7.

29 Transitional regulation-making power

- (1) The Governor in Council may make a regulation (a *transitional regulation*) providing for any matters of a saving or transitional nature for which it is necessary to make provision to allow or facilitate the change from the operation of the Electricity Act or Gas Supply Act, as in force before the commencement, to the operation of the NERL (Qld).
- (2) A transitional regulation may have retrospective operation to a day not earlier than the commencement.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) A transitional regulation expires 3 years after the day the regulation commences.
- (5) The *Acts Interpretation Act 1954*, section 20A, as applied by the *Statutory Instruments Act 1992*, section 14, applies for the expiry.

Part 6 Amendment of Acts

Division 1 Amendment of this Act

30 Act amended

This division amends this Act.

[s 31]

31 Amendment of long title

Long title, from ‘to amend’ to ‘particular purposes,’—
omit.

Division 2 Amendment of Electricity—National Scheme (Queensland) Act 1997

32 Act amended

This division amends the *Electricity—National Scheme (Queensland) Act 1997*.

33 Amendment of s 6 (Application in Queensland of National Electricity Law)

Section 6(a), after ‘Queensland’—
insert—

, with the modification stated in section 6A

34 Insertion of new s 6A

After section 6—
insert—

6A Application of National Energy Retail Law amendments

(1) The amendments made to the National Electricity Law by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA) start to apply in Queensland when the National Energy Retail Law, part 2 commences.

(2) In this section—

National Electricity Law means the National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996*.

35 Insertion of new pt 4 hdg

Before section 11—

insert—

Part 4 Related matters

36 Insertion of new ss 12–14

After section 11—

insert—

12 Regulation-making power for the National Electricity (Queensland) Law

The Governor in Council may make such regulations as are contemplated by the National Electricity (Queensland) Law as being made under this Act as the application Act of this jurisdiction.

13 Validation of instruments and decisions made by AER

- (1) This section applies to an instrument or a decision made by the AER if—
 - (a) the instrument or decision was made—
 - (i) at or after the time the amendments of the National Electricity Law by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA) were enacted; but
 - (ii) before the time (the *application time*) the amendments started to apply under this Act as a law of Queensland; and
 - (b) had the amendments started so to apply, the making of the instrument or decision would have been authorised by 1 of the following laws (the *authorising law*)—

[s 36]

- (i) the National Electricity (Queensland) Law;
 - (ii) the National Electricity (Queensland) Regulations;
 - (iii) this Act;
 - (iv) a regulation under this Act; and
 - (c) if the making of the instrument or decision would be so authorised subject to the satisfaction of any conditions or other requirements (for example, consultation or publication requirements)—the AER has done anything that would, if the amendments had started so to apply, be required under the authorising law for the instrument or decision to be so authorised.
- (2) For the purposes of the authorising law—
- (a) the instrument or decision is taken to be valid; and
 - (b) the instrument or decision has effect from the application time—
 - (i) as varied, and unless revoked, by any other instrument or decision to which this section applies; and
 - (ii) subject to that law as so applying.
- (3) For this section—
- (a) guidelines are an example of an instrument; and
 - (b) the following are examples of decisions—
 - (i) appointments;
 - (ii) determinations;
 - (iii) approvals.
- (4) In this section—

National Electricity Law means the National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996* (SA).

14 Authorisation of preparatory steps by AER

- (1) This section applies if—
 - (a) the AER is required to do something (a *preparatory step*) before making a decision or making an instrument under 1 of the following (the *authorising law*)—
 - (i) the National Electricity (Queensland) Law;
 - (ii) the National Electricity (Queensland) Regulations;
 - (iii) this Act;
 - (iv) a regulation under this Act; and
 - (b) the preparatory step would have been required under the authorising law if the amendments of the National Electricity Law by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA) had started to apply under this Act as a law of Queensland; and
 - (c) the AER takes the preparatory step—
 - (i) at or after the time the amendments were enacted; but
 - (ii) before the time the amendments started to apply under this Act as a law of Queensland.
- (2) For the purposes of the authorising law, the AER is taken to have complied with the requirement to take the preparatory step.

[s 37]

(3) In this section—

National Electricity Law means the National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996* (SA).

Division 3 Amendment of National Gas (Queensland) Act 2008

37 Act amended

This division amends the *National Gas (Queensland) Act 2008*.

38 Amendment of s 7 (Application in Queensland of National Gas Law)

Section 7(1)(a), after ‘Queensland’—

insert—

, with the modifications stated in section 7A or prescribed by regulation under section 16

39 Insertion of new s 7A

After section 7—

insert—

7A Application of National Energy Retail Law amendments

- (1) The amendments made to the National Gas Law by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA) start to apply in Queensland when the National Energy Retail Law (Queensland), part 2, commences.
- (2) In this section—

National Gas Law means the National Gas Law set out in the Schedule to the South Australian Act.

40 Replacement of s 16 (Regulation-making power)

Section 16—

omit, insert—

16 Regulation-making power for the National Gas (Queensland) Law

- (1) The Governor in Council may make such regulations as are contemplated by the National Gas (Queensland) Law as being made under this Act as the application Act of this jurisdiction.
- (2) In addition, the Governor in Council may, by regulation, modify the National Gas Rules, to the extent they apply as part of the law of Queensland, to provide for a transitional arrangement for the provision of connection services by distributors.
- (3) Without limiting subsection (2), the transitional arrangement may, despite the commencement of Part 12A of the National Gas Rules, allow the connection services to be provided, for a stated period of not more than 1 year, under a model standing offer that has not been approved by the AER.
- (4) In subsections (2) and (3), the terms *connection services*, *distributor* and *model standing offer* have the same meaning as they have under Part 12A of the National Gas Rules.

16A Validation of instruments and decisions made by AER

- (1) This section applies to an instrument or a decision made by the AER if—

[s 40]

- (a) the instrument or decision was made—
 - (i) at or after the time the amendments of the National Gas Law by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA) were enacted; but
 - (ii) before the time (the **application time**) the amendments started to apply under this Act as a law of Queensland; and
 - (b) had the amendments started so to apply, the making of the instrument or decision would have been authorised by 1 of the following laws (the **authorising law**)—
 - (i) the National Gas (Queensland) Law;
 - (ii) the National Gas (Queensland) Regulations;
 - (iii) this Act;
 - (iv) a regulation under this Act; and
 - (c) if the making of the instrument or decision would be so authorised subject to the satisfaction of any conditions or other requirements (for example, consultation or publication requirements)—the AER has done anything that would, if the amendments had started so to apply, be required under the authorising law for the instrument or decision to be so authorised.
- (2) For the purposes of the authorising law—
- (a) the instrument or decision is taken to be valid; and
 - (b) the instrument or decision has effect from the application time—
 - (i) as varied, and unless revoked, by any other instrument or decision to which this section applies; and

- (ii) subject to that law as so applying.
- (3) For this section—
 - (a) guidelines are an example of an instrument;
and
 - (b) the following are examples of decisions—
 - (i) appointments;
 - (ii) determinations;
 - (iii) approvals.
- (4) In this section—

National Gas Law means the National Gas Law set out in the Schedule to the South Australian Act.

16B Authorisation of preparatory steps by AER

- (1) This section applies if—
 - (a) the AER is required to do something (a *preparatory step*) before making a decision or making an instrument under 1 of the following (the *authorising law*)—
 - (i) the National Gas (Queensland) Law;
 - (ii) the National Gas (Queensland) Regulations;
 - (iii) this Act;
 - (iv) a regulation under this Act; and
 - (b) the preparatory step would have been required under the authorising law if the amendments of the National Gas Law by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA) had started to apply under this Act as a law of Queensland; and
 - (c) the AER takes the preparatory step—

[s 40]

- (i) at or after the time the amendments were enacted; but
 - (ii) before the time the amendments started to apply under this Act as a law of Queensland.
- (2) For the purposes of the authorising law, the AER is taken to have complied with the requirement to take the preparatory step.
- (3) In this section—
National Gas Law means the National Gas Law set out in the Schedule to the South Australian Act.

Schedule

**Modification of application of
National Energy Retail Law**

section 4

1 Section 2(1)—

insert—

assigned retailer means a government owned corporation declared, under section 64C, to be an assigned retailer for Subdivision 2 of Division 12A of Part 2;

Editor's note—

This definition is an additional Queensland provision.

card-operated meter means a device, including any associated equipment, for measuring electricity that switches on and off in accordance with the amount of credit applied to the device by a card designed for use with the device;

Editor's note—

This definition is an additional Queensland provision.

card-operated meter premises means premises of a small customer at which electricity is sold to the small customer using a card-operated meter;

Editor's note—

This definition is an additional Queensland provision.

compliance, investigation or enforcement provision means the following—

- (a) Part 8;
- (b) Divisions 1 to 3 of Part 13;
- (c) any other provision of this Law conferring on the AER a function or power relating to monitoring, investigating or enforcing provisions of this Law;

- (d) any other provision of this Law relating to the performance of a function or exercise of a power under a provision mentioned in paragraph (a), (b) or (c);

Editor's note—

This definition is an additional Queensland provision.

Ergon Energy Distribution means Ergon Energy Corporation Limited ACN 087 646 062;

Editor's note—

This definition is an additional Queensland provision.

government owned corporation—

- (a) means a government owned corporation within the meaning given by the *Government Owned Corporations Act 1993* of Queensland; and
- (b) includes a subsidiary within the meaning given by that Act;

Editor's note—

This definition is an additional Queensland provision.

2 Section 2(1), definition *financially responsible retailer—*
omit, insert—

financially responsible retailer for premises means—

- (a) for electricity—
 - (i) for premises connected to a nominated distributor's distribution system—the retailer who is currently selling, or most recently sold, electricity to a customer at the premises; or
 - (ii) for other premises—the retailer who is the financially responsible Market Participant responsible for the premises under the NER; or

- (b) for gas—
- (i) for premises connected to a nominated distributor's distribution system—the retailer who is currently selling, or most recently sold, gas to a customer at the premises; or
 - (ii) for other premises—the retailer who is responsible for settling the account for gas withdrawn from the delivery point (however described) associated with the premises under the relevant Retail Market Procedures;

Editor's note—

This definition is a substituted Queensland provision.

3 Section 2(1)—

insert—

large customer standard retail contract, of an assigned retailer, means the retailer's large customer standard retail contract under Subdivision 2 of Division 12A of Part 2;

Editor's note—

This definition is an additional Queensland provision.

4 Section 2(1), definition ***meter identifier***

omit, insert—

meter identifier means—

- (a) for electricity—
 - (i) generally—the NMI; or
 - (ii) for premises supplied electricity on a distribution system of Ergon Energy Distribution—a unique identification number allocated by Ergon Energy

Distribution to a meter at the premises;
or

- (b) for gas—the MIRN or the delivery point identifier;

Editor's note—

This definition is a substituted Queensland provision.

5 Section 2(1)—

insert—

monitoring, investigating or enforcing, in relation to a provision of this Law, means the following—

- (a) monitoring compliance by persons with the provision;
- (b) investigating breaches or possible breaches of the provision, including offences;
- (c) instituting and conducting proceedings in relation to breaches of the provision;
- (d) instituting and conducting appeals from decisions in proceedings mentioned in paragraph (c);

Editor's note—

This definition is an additional Queensland provision.

6 Section 2(1), definition *prepayment meter system*—

omit, insert—

prepayment meter system—

- (a) means a device, componentry, software or other mechanism that operates to permit the flow of energy through a meter after prepayment and when activated by a card, code or some other method; but

- (b) does not include a device, componentry, software or other mechanism that is or includes a card-operated meter;

Editor's note—

This definition is a substituted Queensland provision.

7 Section 2(1)—

insert—

standard retail contract (card-operated meters) means a standard retail contract consistent with the model terms and conditions applying to standard retail contracts for selling electricity to a small customer using a card-operated meter;

Editor's note—

This definition is an additional Queensland provision.

8 Section 4(1), Table—

insert—

Section 19A(1)	Restriction on selling electricity to particular small customers
Section 19B(1)	Restriction on selling gas to particular small customers
Section 19C(1), (4) and (6)	Additional restrictions on sale of energy by assigned retailer
Section 60C(1)	Contractual arrangements for selling electricity using card-operated meter
Section 60D(1) and (4)	Premises registered as having life support equipment
Section 64A(1)	Restriction on selling gas to particular large customers
Section 64D(2) and (4)	Assigned retailer to make offer to large customers
Section 64E(5)	Assigned retailer's large customer standard retail contract
Section 64M(2) and (3)	Origin Energy to make offer to large customers
Section 64N(5)	Origin Energy's large customer standard retail contract
Section 78B(1)	Contractual arrangements for card-operated meter premises

9 Section 4(1), after the Table—

insert—

Editor's note—

The entries in the Table for sections 19A(1), 19B(1), 19C(1), (4) and (6), 60C(1), 60D(1) and (4), 64A(1), 64D(2) and (4), 64E(5), 64M(2) and (3), 64N(5) and 78B(1) are additional Queensland provisions.

10 Section 5(3)—

omit, insert—

- (3) A large customer is—
- (a) a business customer who consumes energy at business premises at or above the upper consumption threshold; or
 - (b) the State or a local government that consumes energy at street lighting premises.

Editor's note—

This subsection is a substituted Queensland provision.

11 Section 5—

insert—

- (5) In this section—

local government means—

- (a) the Brisbane City Council; or
- (b) a local government under the *Local Government Act 2009* of Queensland;

State has the meaning given by section 18(2);

street lighting premises means premises comprising street lighting or a system of street lighting.

Editor's note—

This subsection is an additional Queensland provision.

12 Section 8—*insert—*

- (3) Editor's notes included in this Law do not form part of this Law.
- (4) The following apply for interpreting editor's notes included in this Law—
 - (a) an additional Queensland provision is a provision of this Law that does not form part of the NERL and has been included for the application of the NERL in Queensland;
 - (b) a substituted Queensland provision is a provision of this Law that is a substitute for a provision of the NERL (of the same number) and has been substituted for the application of the NERL in Queensland;
 - (c) a provision that is not applicable in Queensland is a provision of the NERL that does not apply in Queensland.
- (5) In this section—

NERL means the National Energy Retail Law, as amended from time to time, set out in the Schedule to the *National Energy Retail Law (South Australia) Act 2011* of South Australia.

Editor's note—

Subsections (3) to (5) are additional Queensland provisions.

13 Section 19(2)—*omit, insert—*

- (2) This Part, other than Divisions 12 and 12A, does not apply to or affect the relationship between retailers and large customers.

Editor's note—

This subsection is a substituted Queensland provision.

14 **After section 19—**
insert—

Division 1A Additional Queensland provisions about restrictions on sale of energy

Editor's note—

The provisions of this Division are additional Queensland provisions.

19A Restriction on selling electricity to particular small customers

- (1) A retailer must not sell electricity to an excluded small customer unless—
- (a) the retailer is the designated retailer for the customer's premises; or
 - (b) the sale is authorised or required under the RoLR scheme under Part 6.

Note—

This subsection is a civil penalty provision.

- (2) In this section—
- excluded small customer* means a small customer who is—
- (a) an excluded customer under section 23(5) of the *Electricity Act 1994* of Queensland; or
 - (b) a customer to whom section 319 or 319A of the *Electricity Act 1994* of Queensland applies.

19B Restriction on selling gas to particular small customers

- (1) A retailer must not sell gas to an excluded small customer unless the sale is authorised or required under—
 - (a) the RoLR scheme under Part 6; or
 - (b) an insufficiency of supply declaration, or an insufficiency of supply direction, under the *Gas Supply Act 2003* of Queensland.

Note—

This subsection is a civil penalty provision.

- (2) To remove any doubt, it is declared that section 22 does not apply to a retailer selling gas to an excluded small customer.
- (3) However, Division 9 applies to a retailer selling gas to an excluded small customer in the retailer's capacity as the financially responsible retailer for premises.
- (4) In this section—

excluded small customer means a small customer who is an excluded customer under section 16(4) of the *Gas Supply Act 2003* of Queensland.

19C Additional restrictions on sale of energy by assigned retailer

- (1) An assigned retailer may provide customer retail services to a customer for premises only if the retailer is—
 - (a) in a case where there is no existing connection—the local area retailer for the relevant geographical area, premises or customer (see section 11(3)); or
 - (b) in a case where there is an existing connection (including where a connection

alteration to an existing connection is required)—

- (i) the local area retailer for the relevant geographical area, premises or customer (see section 11(3)); and
- (ii) the financially responsible retailer for the premises.

Note—

This subsection is a civil penalty provision.

- (2) Subsection (1) does not apply if the assigned retailer provides customer retail services to a customer who is required to be transferred to the retailer to correct an erroneous transfer, completed under the NER, from the retailer to another holder of a retailer authorisation.
- (3) It is a defence to a proceeding under subsection (1) if, because of information given by the customer, the assigned retailer reasonably believed it was obliged to provide customer retail services to the customer for the premises.
- (4) An assigned retailer may provide customer retail services to a customer only under—
 - (a) for a small customer—a standard retail contract (including a standard retail contract (card-operated meters)); or
 - (b) for a large customer—the retailer's large customer standard retail contract.

Note—

This subsection is a civil penalty provision.

- (5) Subsection (4) does not apply to an assigned retailer providing customer retail services to a customer in the circumstances prescribed under a local instrument of this jurisdiction.
- (6) If an assigned retailer provides customer retail services under subsection (5), the retailer must

comply with the conditions prescribed under a local instrument of this jurisdiction for the provision of the services.

Note—

This subsection is a civil penalty provision.

- (7) This section does not prevent an assigned retailer entering into a separate arrangement with a qualifying customer of the retailer to buy electricity produced at the qualifying customer's premises and supplied to a distribution system.
- (8) In this section—
- qualifying customer* means a customer whose annual consumption at the customer's premises is, or is estimated by the distributor who provides customer connection services to the premises to be, less than 100 megawatt hours.

19D Monitoring, investigating and enforcing this Division

- (1) A local instrument of this jurisdiction must nominate the entity who is the Regulator for this Division.
- (2) The Regulator has, for monitoring, investigating or enforcing this Division, the same functions and powers the AER has for monitoring, investigating or enforcing other provisions of this Law.
- (3) For subsection (2), this Law applies to monitoring, investigating or enforcing this Division as if a reference in a compliance, investigation or enforcement provision to the AER were a reference to the Regulator.
- (4) This Law confers functions and powers on the AER for monitoring, investigating or enforcing this Division only if the AER is nominated as the

Regulator under subsection (1) and only to the extent provided for under this section.

15 After section 22—

insert—

22A Additional Queensland provision about standing offer prices for particular retailers

- (1) Subsection (2) applies if there are notified prices under section 90(4) of the *Electricity Act 1994* of Queensland for a retailer providing customer retail services to all or particular small customers.
- (2) For the purposes of this Law, the retailer's standing offer prices for providing the customer retail services to the small customers must, under section 91A of the *Electricity Act 1994* of Queensland, be the notified prices.
- (3) Subsection (4) applies if—
 - (a) on or after the commencement of this section, there were notified prices under section 90(4) of the *Electricity Act 1994* of Queensland for a retailer providing customer retail services to all or particular small customers; and
 - (b) the price determination fixing the notified prices no longer applies under section 89B of the *Electricity Act 1994* of Queensland.
- (4) For the purposes of this Law, for the first 2 years after the price determination no longer applies, the retailer's standing offer prices for providing the customer retail services to the small customers may comprise only fees and charges of types that were the subject of the notified prices for the financial year immediately preceding the day the price determination no longer applies.

Editor's note—

This section is an additional Queensland provision.

16 Section 23—

insert—

(8) Limitation on application of this section

This section applies only as follows—

- (a) in relation to a retailer who sells gas;
- (b) subject to subsection (9), in relation to a retailer who sells electricity to small customers whose standing offer prices stop being notified prices under section 90(4) of the *Electricity Act 1994* of Queensland because the price determination fixing the notified prices no longer applies (as mentioned in section 22A(3)).

(9) Modified application of this section

This section applies in relation to a retailer mentioned in subsection (8)(b) with the following changes—

- (a) the retailer—
 - (i) must set its standing offer prices immediately after the price determination mentioned in the subsection no longer applies; and
 - (ii) can not vary the standing offer prices for 1 year after the prices are set under subparagraph (i), unless the variation is to reduce the standing offer prices;
- (b) despite subsection (3)(c), if the retailer varies its standing offer prices to increase the prices, the retailer must inform each affected customer of the variation at least 10 business days before the variation takes effect;

- (c) despite subsections (2)(b) and (5), the retailer may vary its standing offer prices to reduce the prices at any time.

Editor's note—

Subsections (8) and (9) are additional Queensland provisions.

17 After section 23—

insert—

23A Additional Queensland provision about publication and notification of standing offer prices etc.

- (1) This section applies to a retailer who sells electricity to small customers whose standing offer prices are notified prices under section 90(4) of the *Electricity Act 1994*.
- (2) The retailer must, if the retailer's standing offer prices are varied, inform each affected customer of the variation when the retailer sends the next bill to the customer.

Editor's note—

This section is an additional Queensland provision.

23B Monitoring, investigating and enforcing ss 22A and 23A

- (1) A local instrument of this jurisdiction must nominate the entity that is the Regulator for sections 22A and 23A (each a *relevant provision*).
- (2) The Regulator has, for monitoring, investigating or enforcing a relevant provision, the same functions and powers the AER has for monitoring, investigating or enforcing other provisions of this Law.

- (3) For subsection (2), this Law applies to monitoring, investigating or enforcing a relevant provision as if a reference in a compliance, investigation or enforcement provision to the AER were a reference to the Regulator.
- (4) This Law confers functions and powers on the AER for monitoring, investigating or enforcing a relevant provision only if the AER is nominated as the Regulator under subsection (1) and only to the extent provided for under this section.

Editor's note—

This section is an additional Queensland provision.

18 Section 31—

insert—

- (3) This section does not apply to a designated retailer who sells electricity.

Editor's note—

This subsection is an additional Queensland provision.

19 After section 60—

insert—

Division 10A Additional Queensland provisions about selling electricity using card-operated meters

Editor's note—

The provisions of this Division are additional Queensland provisions.

60A Model terms and conditions for standard retail contract for selling electricity using card-operated meter

- (1) A local instrument of this jurisdiction must set out the model terms and conditions that apply to standard retail contracts for selling electricity to a small customer using a card-operated meter.
- (2) Subject to this Division, this Law applies to standard retail contracts for selling electricity to a small customer using a card-operated meter as if a reference in this Law to the model terms and conditions for standard retail contracts were a reference to the model terms and conditions set out in the local instrument.

60B Adoption of form of standard retail contract (card-operated meters)

Section 25(1) requires a retailer to adopt and publish a standard retail contract (card-operated meters) on the retailer's website if the retailer sells electricity to a small customer using a card-operated meter.

60C Contractual arrangements for selling electricity using card-operated meter

- (1) A retailer may sell electricity to a small customer using a card-operated meter only under a standard retail contract (card-operated meters).

Note—

This subsection is a civil penalty provision.

- (2) However, a retailer must obtain the explicit informed consent of a small customer for the entry by the customer into a standard retail contract (card-operated meters) for premises registered under the Rules as having life support equipment.

Note—

See sections 38 and 41 for the consequences of contravening this subsection.

60D Premises registered as having life support equipment

- (1) If a retailer who, with a small customer, has a standard retail contract (card-operated meters) for premises is notified by the customer or a distributor that the premises are registered under the Rules as having life support equipment, the retailer must make immediate arrangements for—
 - (a) the removal of the card-operated meter at no cost to the small customer; and
 - (b) the installation of a standard meter to replace a card-operated meter at no cost to the small customer; and
 - (c) the provision of information to the small customer about, and a general description of, the customer retail contracts available to the customer.

Note—

This subsection is a civil penalty provision.

- (2) Subsection (1) does not apply if the small customer gives the retailer explicit informed consent for the card-operated meter to continue to be used at the premises.
- (3) Subsection (4) applies to a retailer who, with a small customer, has a standard retail contract (card-operated meters) for premises registered under the Rules as having life support equipment.
- (4) The retailer must adopt programs and strategies to help the small customer to better manage the customer's electricity costs to avoid the card-operated meter installed on the premises

from preventing the flow of electricity to the premises solely due to financial difficulty.

Note—

This subsection is a civil penalty provision.

- (5) In this section—

installation of a standard meter to replace a card-operated meter includes the conversion of the card-operated meter to a standard operating mode so that the card-operated meter operates as a standard meter.

removal of a card-operated meter includes rendering the meter non-operational.

standard meter, for a particular small customer, means a metering installation of the type that would ordinarily be installed at the premises of the customer, other than a card-operated meter.

**60DA When standard retail contract
(card-operated meters) takes effect**

Despite section 26, a standard retail contract (card-operated meters) between a retailer and a small customer takes effect when the customer starts consuming electricity at the customer's premises.

**60E Monitoring, investigating and enforcing this
Division**

- (1) A local instrument of this jurisdiction must nominate the entity who is the Regulator for this Division.
- (2) The Regulator has, for monitoring, investigating or enforcing this Division, the same functions and powers the AER has for monitoring, investigating or enforcing other provisions of this Law.

- (3) For subsection (2), this Law applies to monitoring, investigating or enforcing this Division as if a reference in a compliance, investigation or enforcement provision to the AER were a reference to the Regulator.
- (4) This Law confers functions and powers on the AER for monitoring, investigating or enforcing this Division only if the AER is nominated as the Regulator under subsection (1) and only to the extent provided for under this section.

20 Part 2—

insert—

Division 12A Additional Queensland provisions about large customers

Editor's note—

The provisions of this Division are additional Queensland provisions.

Subdivision 1 Restriction on sale of gas

64A Restriction on selling gas to particular large customers

- (1) A retailer must not sell gas to an excluded large customer unless the sale is authorised or required under—
 - (a) the RoLR scheme under Part 6; or
 - (b) an insufficiency of supply declaration, or an insufficiency of supply direction, under the *Gas Supply Act 2003* of Queensland.

Note—

This subsection is a civil penalty provision.

- (2) However, Division 12 applies to a retailer selling gas to an excluded large customer in the retailer's capacity as the financially responsible retailer for premises.
- (3) In this section—
excluded large customer means a large customer who is an excluded customer under section 16(4) of the *Gas Supply Act 2003* of Queensland.

Subdivision 2 Assigned retailer to provide customer retail services to particular large customers

64B Definition

In this Subdivision—

notified prices, for an assigned retailer, means the notified prices applying to the retailer under section 90(4) of the *Electricity Act 1994* of Queensland.

64C Declaration of assigned retailer

A local instrument of this jurisdiction may declare a retailer to be an assigned retailer for this Subdivision if the retailer is a government owned corporation.

64D Assigned retailer to make offer to large customers

- (1) This section applies if, for a large customer's premises, an assigned retailer is—
 - (a) if there is no existing connection—the local area retailer for the relevant geographical area, premises or customer (see section 11(3)); or

- (b) if there is an existing connection (including where a connection alteration to an existing connection is required)—the financially responsible retailer for the premises.
- (2) The assigned retailer must make an offer (a *standing offer*) to the large customer to provide customer retail services to the premises—
 - (a) at the notified prices; and
 - (b) under the retailer’s large customer standard retail contract.

Note—

This subsection is a civil penalty provision.

- (3) A local instrument of this jurisdiction may prescribe the manner and form in which a standing offer is to be made.
- (4) Without limiting the power to make a local instrument under subsection (3) relating to the manner and form in which a standing offer is to be made, the assigned retailer must publish the terms and conditions of the standing offer on its website.

Note—

This subsection is a civil penalty provision.

- (5) This section does not apply to an assigned retailer providing customer retail services to a large customer in the circumstances prescribed under a local instrument of this jurisdiction.

64E Assigned retailer’s large customer standard retail contract

- (1) The terms and conditions of the assigned retailer’s large customer standard retail contract are the terms and conditions decided by the retailer as amended by it from time to time.

- (2) However, the terms and conditions of the large customer standard retail contract must provide for the provision of the services on a fair and reasonable basis and at the notified prices.
- (3) Services under the large customer standard retail contract are taken to be provided on a fair and reasonable basis if the terms and conditions of the contract are consistent with the assigned retailer's form of standard retail contract for providing customer retail services to small customers adopted under section 25 or varied under section 28.
- (4) The terms and conditions of the large customer standard retail contract may be different for stated types of large customers and be contained in a different document for any of the types of large customers.
- (5) The assigned retailer must publish its large customer standard retail contract on its website.

Note—

This subsection is a civil penalty provision.

64F Formation of assigned retailer's large customer standard retail contract

- (1) An assigned retailer's large customer standard retail contract takes effect as a contract between the retailer and a large customer when the customer—
 - (a) asks the retailer to provide customer retail services at premises under the retailer's standing offer under section 64D; and
 - (b) complies with the requirements specified in the Rules as pre-conditions to the formation of standard retail contracts applied to the retailer's large customer standard retail contract or as otherwise prescribed under a local instrument of this jurisdiction.

- (2) The assigned retailer can not decline to enter into the large customer standard retail contract if the customer makes the request and complies with the requirements referred to in subsection (1).

64G Obligation to comply with assigned retailer's large customer standard retail contract

An assigned retailer must comply with its obligations under the terms and conditions of its large customer standard retail contract between it and a large customer.

64H Duration of assigned retailer's large customer standard retail contract

An assigned retailer's large customer standard retail contract between the retailer and a large customer for the provision of customer retail services to the premises of the large customer remains in force until the contract is terminated in accordance with this Law, a local instrument of this jurisdiction or the contract.

64I Deemed large customer retail arrangement for new or continuing customer without assigned retailer's large customer standard retail contract

- (1) This section applies to energised premises for which an assigned retailer is the financially responsible retailer.
- (2) An arrangement (a *deemed large customer retail arrangement*) is taken to apply between the assigned retailer and a move-in large customer.
- (3) The deemed large customer retail arrangement comes into operation when the move-in large customer starts consuming energy at the premises.

- (4) The deemed large customer retail arrangement ceases to be in operation if—
 - (a) the assigned retailer's large customer standard retail contract is formed for the premises; or
 - (b) the move-in large customer enters into a contract or other arrangement for the sale of electricity to the premises with an entity other than the assigned retailer.
- (5) Subsection (2) does not apply if the customer consumes energy at the premises by fraudulent or illegal means.
- (6) Subsection (4) does not affect any rights or obligations that have already accrued under the deemed large customer retail arrangement.
- (7) If the customer consumes energy at the premises by fraudulent or illegal means—
 - (a) the customer is nevertheless liable to pay the assigned retailer's notified prices for the premises in respect of the energy so consumed; and
 - (b) the assigned retailer may estimate and issue a bill for the charges payable and recover those charges in accordance with those notified prices as a debt in a court of competent jurisdiction; and
 - (c) payment or recovery of any such charges is not a defence to an offence relating to obtaining energy by fraudulent or illegal means.
- (8) A move-in large customer is required to contact the assigned retailer and take appropriate steps to enter into the retailer's large customer standard retail contract as soon as practicable.
- (9) In this section—

move-in large customer means a large customer who starts consuming energy at the premises without first applying to the assigned retailer for the provision of customer retail services.

64J Terms and conditions of deemed large customer retail arrangements

- (1) The terms and conditions of a deemed large customer retail arrangement under section 64I are the terms and conditions of the assigned retailer's large customer standard retail contract.
- (2) The prices applicable to a deemed large customer retail arrangement are the assigned retailer's notified prices.
- (3) A local instrument of this jurisdiction may make provision for or with respect to deemed large customer retail arrangements, and in particular may supplement or modify the terms and conditions of deemed large customer retail arrangements.

64K Application of Rules to assigned retailer's large customers

A local instrument of this jurisdiction may apply, with or without modification, specified provisions of the Rules relating to the provision of customer retail services to small customers to the provision of customer retail services by the assigned retailer to large customers.

Subdivision 3 Origin Energy to provide customer retail services to particular large customers

64L Definition

In this Subdivision—

notified prices means the notified prices applying to Origin Energy under section 90(4) of the *Electricity Act 1994* of Queensland.

special approval no. SA02/11 means the special approval under the *Electricity Act 1994* of Queensland that was held by Origin Energy and in effect from 1 March 2011 to the commencement of this section.

64M Origin Energy to make offer to particular large customers

- (1) This section applies if—
- (a) for a large customer's premises, Origin Energy is—
 - (i) if there is no existing connection—the local area retailer for the relevant geographical area, premises or customer (see section 11(3)); or
 - (ii) if there is an existing connection (including where a connection alteration to an existing connection is required)—the financially responsible retailer for the premises; and
 - (b) for paragraph (a)(ii), no alternative arrangements for the provision of customer retail services to the premises have been entered into by the large customer, or any former customer for the premises, from 1 March 2011; and

-
- (c) the premises are located in the area described in special approval no. SA01/11.

Note—

The holder of special approval no. SA01/11 is Essential Energy ABN 37 428 185 226.

- (2) Origin Energy must make an offer (a *standing offer*) to the large customer to provide customer retail services to the premises—
- (a) at the notified prices; and
- (b) under Origin Energy's large customer standard retail contract.

Note—

This subsection is a civil penalty provision.

- (3) Origin Energy must publish the terms and conditions of the standing offer on its website.

Note—

This subsection is a civil penalty provision.

- (4) In this section—
- alternative arrangements*, for the provision of customer retail services, means arrangements for the provision of the customer retail services other than under—
- (a) a large customer retail contract with Origin Energy; or
- (b) a standard retail contract with Origin Energy; or
- (c) special approval no. SA02/11.

64N Origin Energy's large customer standard retail contract

- (1) The terms and conditions of Origin Energy's large customer standard retail contract are the terms and conditions decided by Origin Energy as amended by it from time to time.

- (2) However, the terms and conditions of the large customer standard retail contract must provide for the provision of the services on a fair and reasonable basis and at the notified prices.
- (3) Services under the large customer standard retail contract are taken to be provided on a fair and reasonable basis if the terms and conditions of the contract are consistent with Origin Energy's form of standard retail contract for providing customer retail services to small customers adopted under section 25 or varied under section 28.
- (4) The terms and conditions of the large customer standard retail contract may be different for stated types of large customers and be contained in a different document for any of the types of large customers.
- (5) Origin Energy must publish its large customer standard retail contract on its website.

Note—

This subsection is a civil penalty provision.

640 Formation of Origin Energy's large customer standard retail contract

- (1) Origin Energy's large customer standard retail contract takes effect as a contract between the retailer and a large customer when the customer—
 - (a) asks Origin Energy to provide customer retail services at premises under Origin Energy's standing offer under section 64M; and
 - (b) complies with the requirements specified in the Rules as pre-conditions to the formation of standard retail contracts applied to Origin Energy's large customer standard retail

contract or as otherwise prescribed under a local instrument of this jurisdiction.

- (2) Origin Energy can not decline to enter into the large customer standard retail contract if the customer makes the request and complies with the requirements referred to in subsection (1).

64P Obligation to comply with Origin Energy's large customer standard retail contract

Origin Energy must comply with its obligations under the terms and conditions of its large customer standard retail contract between it and a large customer.

64Q Duration of Origin Energy's large customer standard retail contract

Origin Energy's large customer standard retail contract between Origin Energy and a large customer for the provision of customer retail services to the premises of the large customer remains in force until the contract is terminated in accordance with this Law, a local instrument of this jurisdiction or the contract.

Subdivision 4 Other provisions

64R Obligation to provide customer retail services to particular large customers

- (1) This section applies if—
 - (a) a large customer for premises applies to the financially responsible retailer for the premises for the provision of customer retail services to the premises; and
 - (b) the supply of electricity to the premises has been disconnected; and
 - (c) either—

- (i) before the disconnection, the premises were supplied electricity on a distribution system of Ergon Energy Distribution; or
- (ii) the premises are located in the area described in special approval no. SA01/11.

Note—

The holder of special approval no. SA01/11 is Essential Energy ABN 37 428 185 226.

- (2) The financially responsible retailer must provide the customer retail services applied for.

64S Monitoring, investigating and enforcing this Division

- (1) A local instrument of this jurisdiction must nominate the entity who is the Regulator for this Division.
- (2) The Regulator has, for monitoring, investigating or enforcing this Division, the same functions and powers the AER has for monitoring, investigating or enforcing other provisions of this Law.
- (3) For subsection (2), this Law applies to monitoring, investigating or enforcing this Division as if a reference in a compliance, investigation or enforcement provision to the AER were a reference to the Regulator.
- (4) This Law confers functions and powers on the AER for monitoring, investigating or enforcing this Division only if the AER is nominated as the Regulator under subsection (1) and only to the extent provided for under this section.

Division 6A Additional Queensland provisions about providing customer connection services for card-operated meter premises

Editor's note—

The provisions of this Division are additional Queensland provisions.

78A Model terms and conditions for deemed standard connection contract for card-operated meter premises

- (1) A local instrument of this jurisdiction must set out the model terms and conditions that apply to a deemed standard connection contract for providing customer connection services for card-operated meter premises.
- (2) Subject to this Division, this Law applies to deemed standard connection contracts for providing customer connection services for card-operated meter premises as if a reference in this Law to the model terms and conditions for deemed standard connection contracts were a reference to the model terms and conditions set out in the local instrument.

78B Contractual arrangements for card-operated meter premises

- (1) A distributor may provide customer connection services for card-operated meter premises only under a deemed standard connection contract (card-operated meters).

Note—

This subsection is a civil penalty provision.

- (2) In this section—

deemed standard connection contract (card-operated meters) means a deemed standard connection contract consistent with the model terms and conditions applying to deemed standard connection contracts for card-operated meter premises.

78C Monitoring, investigating and enforcing this Division

- (1) A local instrument of this jurisdiction must nominate the entity who is the Regulator for this Division.
- (2) The Regulator has, for monitoring, investigating or enforcing this Division, the same functions and powers the AER has for monitoring, investigating or enforcing other provisions of this Law.
- (3) For subsection (2), this Law applies to monitoring, investigating or enforcing this Division as if a reference in a compliance, investigation or enforcement provision to the AER were a reference to the Regulator.
- (4) This Law confers functions and powers on the AER for monitoring, investigating or enforcing this Division only if the AER is nominated as the Regulator under subsection (1) and only to the extent provided for under this section.

22 Part 5, division 1, after section 88—

insert—

88A Additional Queensland provision for exception from requirement for authorisation or exemption

- (1) A person does not contravene section 88 for the sale of electricity if—

- (a) the person is a rail government entity and the electricity is sold to Airtrain Citylink Limited—
 - (i) for use in connection with the building or use of electrical installations and works by Airtrain Citylink Limited, as part of a system of electric traction or for signalling purposes, on the Brisbane Airport Rail Link; or
 - (ii) for powering electric rolling stock and railway signals on the Brisbane Airport Rail Link; or
 - (b) the person is a railway manager that operates the nominated network, or a related body corporate of that railway manager, and the electricity is sold to a third party access holder for use by the third party access holder—
 - (i) in connection with the building or use of electrical installations and works, as part of a system of electric traction or for signalling purposes, on the nominated network or connected to the nominated network; or
 - (ii) for powering electric rolling stock and railway signals on the nominated network or rail transport infrastructure owned by the third party access holder and connected to the network.
- (2) Also, a person does not contravene section 88 for the sale of electricity if—
- (a) either of the following applies—
 - (i) the person is a rail government entity and the electricity is sold to a relevant railway manager;

- (ii) the person is a relevant railway manager and the electricity is sold to a rail government entity; and
- (b) the electricity is used—
 - (i) in connection with the building or use of electrical installations and works, as part of a system of electric traction or for signalling purposes, on rail transport infrastructure or connected to the rail transport infrastructure; or
 - (ii) for powering electric rolling stock and railway signals on rail transport infrastructure.
- (3) Further, a person does not contravene section 88 for the sale of electricity if the person is the holder of licence no. 960, issued under section 13 of the *Gladstone Power Station Agreement Act 1993* of Queensland.

- (4) In this section—

Airtrain Citylink Limited—

- (a) means Airtrain Citylink Limited ACN 066 543 315; and
- (b) includes its successors and assigns;

Brisbane Airport Rail Link means the proposed railway shown on CMPS&F Pty Limited drawing no. RQ0159-C029(F)—

- (a) starting at a point 0.313km from the north coast rail line (defined on the drawing as the ownership transfer point); and
- (b) finishing at the domestic terminal of Brisbane Airport;

Note—

A copy of the drawing is available for inspection at the offices of the Department of Transport and Main Roads,

Level 12, Capital Hill Building, 85 George Street,
Brisbane.

electrical installation has the meaning given by section 14 of the *Electricity Act 1994* of Queensland;

rail government entity has the meaning given by schedule 6 of the *Transport Infrastructure Act 1994* of Queensland;

railway manager has the meaning given by schedule 6 of the *Transport Infrastructure Act 1994* of Queensland;

related body corporate has the meaning given by the *Corporations Act 2001* of the Commonwealth;

relevant railway manager, for a rail government entity, means—

- (a) a railway manager that operates rail transport infrastructure that is directly connected to rail transport infrastructure operated by the rail government entity; or
- (b) a related body corporate of a railway manager mentioned in paragraph (a);

Note—

A relevant railway manager may be a rail government entity.

third party access holder means a person who, under an arrangement with a railway manager or a related body corporate of the railway manager, is entitled to access and use a nominated part of its rail transport infrastructure (the **nominated network**);

works has the meaning given by section 12(1) of the *Electricity Act 1994* of Queensland.

Editor's note—

This section is an additional Queensland provision.

23 After section 121—

insert—

121A Additional Queensland provision about application to distribution systems of Ergon Energy Distribution

This Part does not apply in relation to a distribution system for which Ergon Energy Distribution is the nominated distributor.

Editor's note—

This section is an additional Queensland provision.

24 Section 122, definition *failed retailer*—

omit, insert—

failed retailer—

- (a) generally, means a retailer or former retailer in relation to whom a RoLR event has occurred; but
- (b) for gas, does not include a retailer or former retailer who sells gas to more than 15% of the small gas customers in Queensland;

Editor's note—

This definition is a substituted Queensland provision.

25 After section 123—

insert—

123A Additional Queensland provision about when assigned retailer can be registered as a RoLR

An assigned retailer can not be registered as a RoLR unless a local instrument of this jurisdiction states otherwise.

Editor's note—

This section is an additional Queensland provision.

26 Section 141—*insert—*

- (11) If a small customer of a failed retailer is on a standard retail contract (card-operated meters), a payment equal to the value of any credit remaining on the small customer's card used with the card-operated meter as at the transfer date must be made by the failed retailer or insolvency official to the small customer without any deduction.

Editor's note—

This subsection is an additional Queensland provision.

27 Section 163(c)(i)—*omit, insert—*

- (i) details of what happens with their existing contracts with the failed retailer, which must include details of the effect of sections 140 and 141 as to hardship customers, customers on life support, feed-in arrangements, termination of direct debits (including Centrepay), refunds of advance payments, security deposits, credits on prepayment meter system accounts, credits remaining on cards used with card-operated meters and uncompleted service orders; and

Editor's note—

This subparagraph is a substituted Queensland provision.

28 Part 7—*omit, insert—*

Part 7

Editor's note—

The provisions of this Part are not applicable in Queensland.

© State of Queensland 2014

Authorised by the Parliamentary Counsel