

# National Energy Retail Law (Consequential Amendments) Regulation 2014

Explanatory notes for SL 2014 No. 338

made under the

*Electrical Safety Act 2002*

*Electricity Act 1994*

*Energy and Water Ombudsman Act 2006*

*Gas Supply Act 2003*

*Queensland Competition Authority Act 1997*

## General Outline

### Short title

*National Energy Retail Law (Consequential Amendments) Regulation 2014*

### Authorising law

Section 210 of the *Electrical Safety Act 2002*

Sections 44A, 92 and 263 of the *Electricity Act 1994*

Section 83 of the *Energy and Water Ombudsman Act 2006*

Section 323 of the *Gas Supply Act 2003*

Section 245 of the *Queensland Competition Authority Act 1997*

### Policy objectives and the reasons for them

The policy objectives are to remove or amend provisions of regulations made under the Acts listed above ('Queensland energy and other regulations') to:

- avoid duplication when the majority of the provisions of the *National Energy Retail Law (Queensland) Act 2014* and the *Electricity Competition and Protection Legislation Amendment Act 2014* are proclaimed into force;
- reflect changes in the regulatory scheme for energy retail, including transfers of responsibility from the Department of Energy and Water Supply (DEWS) to the Australian Energy Regulator (AER); and
- align terminology used in remaining provisions of the regulations with terminology used in the *National Energy Retail Law (Queensland) Act 2014* and the *Electricity Competition and Protection Legislation Amendment Act 2014* to ensure those provisions continue to operate effectively.

Proclaiming the majority of the provisions of the *National Energy Retail Law (Queensland) Act 2014* into force will apply the National Energy Retail Law as a law of Queensland, which will result in the automatic commencement of amendments to the existing National Electricity Law and Rules and National Gas Law and Rules ('existing national energy laws and rules') as applied in Queensland.

Consequently, further policy objectives are to remove or amend provisions of existing Queensland energy and other regulations to:

- avoid duplication upon commencement of amendments to existing national energy laws and rules that take effect when the majority of the provisions of the *National Energy Retail Law (Queensland) Act 2014* and the *Electricity Competition and Protection Legislation Amendment Act 2014* are proclaimed into force; and
- align the terminology used in remaining provisions with the amendments made in existing national energy laws and rules, to ensure those provisions continue to operate effectively.

## **Achievement of policy objectives**

The regulation will achieve its objectives of removing duplication and aligning terminology with the *National Energy Retail Law (Queensland) Act 2014* and amendments to existing national energy laws and rules by amending existing Queensland energy and other regulations in the manner and for the purposes described in the following paragraphs.

The *Electrical Safety Regulation 2013* is to be amended to ensure that references to retailers align with the terminology of the *National Energy Retail Law (Queensland) Act 2014*.

The *Electricity Regulation 2006* is to be amended by removing or amending certain provisions concerning retailers or distributors to avoid duplication with the *National Energy Retail Law (Queensland) Act 2014* and the National Electricity Rules, and by amending certain other provisions to align with the terminology of the *National Energy Retail Law (Queensland) Act 2014* and the National Electricity Law.

The *Gas Supply Regulation 2006* is to be amended by removing or amending certain provisions concerning retailers or distributors to avoid duplication with the *National Energy Retail Law (Queensland) Act 2014* and the National Gas Rules, and by amending certain other provisions to align with the terminology of the *National Energy Retail Law (Queensland) Act 2014*.

The *Energy and Water Ombudsman Regulation 2007* is to be amended so that a provision prescribing participation fees applying to Maranoa and Western Downs Regional Councils, as energy entities, will reflect changes in the regulatory scheme for energy retail and align with the terminology of the *National Energy Retail Law (Queensland) Act 2014*.

The *Queensland Competition Authority Regulation 2007* is to be amended so that a provision prescribing fees payable by certain energy entities will reflect changes in the regulatory scheme for energy retail resulting from the commencement of the National Energy Retail Law in Queensland.

## Consistency with policy objectives of authorising law

The regulation is consistent with the policy objectives of the authorising laws indicated in the following paragraphs.

### *Electrical Safety Act 2002*

#### *Section 4 Purpose*

- 1) This Act is directed at eliminating the human cost to individuals, families and the community of death, injury and destruction that can be caused by electricity.
- (2) Accordingly, the purpose of this Act is to establish a legislative framework for—
  - (a) preventing persons from being killed or injured by electricity; and
  - (b) preventing property from being destroyed or damaged by electricity.

### *Electricity Act 1994*

#### Section 3 Objects of Act

The objects of this Act are to—

- (a) set a framework for all electricity industry participants that promotes efficient, economical and environmentally sound electricity supply and use; and
- (b) regulate the electricity industry and electricity use; and
- (c) establish a competitive electricity market in line with the national electricity industry reform process; and
- (d) ensure that the interests of customers are protected; and
- (e) take into account national competition policy requirements.

### *Energy and Water Ombudsman Act 2006*

Section 67 of this Act provides that participation fees for energy entities may be prescribed under a regulation.

### *Gas Supply Act 2003*

#### Section 3 Main purposes of Act (as per amendment in the *Electricity Competition and Protection Legislation Amendment Act 2014*)

The main purposes of this Act are to—

- (a) promote efficient and economical processed natural gas supply; and
- (b) ensure the interests of customers are protected by—
  - (i) regulating the distribution services for reticulated processed natural gas; and
  - (ii) providing for the making of relevant distribution network codes.

### *Queensland Competition Authority Act 1997*

Section 245 of this Act expressly provides that a regulation may be made for or about fees or charges for services provided, or functions performed, by the authority.

## Inconsistency with policy objectives of other legislation

The regulation is not inconsistent with the policy objectives of other legislation.

It is consistent with the policy objectives of the *National Energy Retail Law (Queensland) Act 2014* which will apply the National Energy Retail Law as a law of Queensland and is also consistent with the policy objectives of the amendments to existing national energy laws and rules that will commence when the National Energy Retail Law commences as a law of Queensland.

## **Alternative ways of achieving policy objectives**

There are no alternative ways of achieving the policy objectives.

Regulations under Queensland energy Acts and other Acts must be amended to avoid duplication upon proclamation of the majority of the provisions of the *National Energy Retail Law (Queensland) Act 2014*, to reflect changes in the regulatory scheme for energy retail, to align terminology used in remaining provisions of the regulations with the *National Energy Retail Law (Queensland) Act 2014* and maintain consistency with amendments of principal legislation in the *Electricity Competition and Protection Legislation Amendment Act 2014*.

## **Benefits and costs of implementation**

The benefits of implementation are that it contributes to a more efficient and competitive energy retail market in Queensland by removing regulatory duplication and consequently reducing the regulatory burden, and that it supports more effective government by transferring certain regulatory functions to another body (the Australian Energy Regulator).

No material costs to the Queensland Government are anticipated in relation to the implementation of the amendments in the proposed regulation.

Changes in the energy retail regulatory scheme will result in functions currently undertaken by the Queensland Competition Authority (QCA) or the Chief Executive of DEWS becoming the responsibility of the AER. As QCA recovers costs from industry and DEWS regulatory costs are recovered through annual licence fees, implementation is expected to be cost-neutral.

## **Consistency with fundamental legislative principles**

The regulation has been drafted having regard to the Fundamental Legislative Principles (FLPs) outlined in the *Legislative Standards Act 1992*, and no matters have been identified as being potentially inconsistent with the FLPs.

## **Consultation**

DEWS consulted on the regulation with the (Queensland) Department of the Premier and Cabinet and Queensland Treasury and Trade, neither of which raised objections to the proposed regulation. DEWS also consulted with the Commonwealth Department of Industry, the Australian Government Solicitors Office and the AER. DEWS undertook broad energy industry and consumer stakeholder consultation on the basis of a consultation draft of the regulation. No changes were made in the regulation as a result of consultation.