

Energy and Water Ombudsman Regulation 2022

Explanatory notes for Subordinate Legislation 2022 No. 114

made under the

Energy and Water Ombudsman Act 2006

General Outline

Short title

Energy and Water Ombudsman Regulation 2022

Authorising law

Section 83 of the *Energy and Water Ombudsman Act 2006* (EWO Act).

Policy objectives and the reasons for them

The *Energy and Water Ombudsman Regulation 2007* commenced in 2007 and has been exempted from expiry since 2017 as the *Energy and Water Ombudsman Act 2006* (EWO Act) was undergoing review as a part of the review of the state's energy laws.

On 27 August 2021, the *Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2021* (the Extension Regulation) exempted the *Energy and Water Ombudsman Regulation 2007* from expiry until 31 August 2022 and it is proposed to remake the regulation before it expires.

The first policy objective of the *Energy and Water Ombudsman Regulation 2022* (the Regulation) is to set appropriate participation fees for the Maranoa and Western Downs Regional Councils. These fees are set at an amount that recognises/reflects:

- the existing conditions that the Councils operated under prior to the commencement of EWO Act (as per the retail authority that was previously granted under the *Gas Supply Act 2003*); and
- that the Councils aren't standard retailers (like other energy scheme participants) and are in fact recognised as 'exempt sellers' for gas under the National Energy Retail Law (NERL).

The second policy objective of the Regulation is to prescribe identified 'exempt sellers', 'exempt network operators', and 'individual exemption holders' (who sell electricity to residential embedded network customers) as 'prescribed energy entities'. Becoming 'prescribed energy entities' ensures residential customers of

these 'exempt sellers', 'exempt network operators' and 'individual exemption holders' will continue to be able to access the free, energy-specific dispute resolution services provided by the Energy and Water Ombudsman Queensland (EWOQ).

The third policy objective of the Regulation is to clarify that entities who have been granted a retailer authorisation from the Australian Energy Regulator (AER) allowing them to on-sell electricity to embedded network customers in Queensland (note: they are not 'exempt sellers', 'exempt network operators' or 'individual exemption holders'), are considered to be 'scheme participants' for the purposes of the EWO Act by prescribing them as 'prescribed energy entities'.

The fourth policy objective of the Regulation is to prescribe the fees payable to EWOQ by the 'prescribed energy entities' and ensure the fees payable reflect the 'prescribed energy entity's' ability to pay.

The fifth policy objective of the Regulation is to prescribe the mandatory requirement for retailers to notify EWOQ when they commence providing customer retail services.

Achievement of policy objectives

The Regulation achieves the policy objectives by:

- prescribing appropriate participation fees for the Maranoa and Western Downs Regional Councils;
- prescribing 'prescribed energy entities' and the associated fee schedule for these entities; and
- making the mandatory notification requirement for retailers a penalty provision worth 20 penalty units.

Consistency with policy objectives of authorising law

The Regulation is consistent with the main objects of the EWO Act.

Inconsistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

The remake of the *Energy and Water Ombudsman Regulation 2007* is the only way for the policy objectives to be achieved.

Benefits and costs of implementation

The matters prescribed in the *Energy and Water Ombudsman Regulation 2022* support and implement the objectives of the EWO Act, consistent with the *Energy and Water Ombudsman Regulation 2007*. In particular, the Regulation sets the participation fees for Maranoa and Western Downs Regional Councils, and prescribes relevant energy entities as new scheme participants and sets the fees

they may be charged. Setting the fees in the Regulation enables the fees to be set at a more cost-effective and appropriate level.

There are no additional costs associated with commencing the *Energy and Water Ombudsman Regulation 2022*.

Consistency with fundamental legislative principles

The provisions of the Regulation are consistent with fundamental legislative principles.

Consultation

In April 2021, a Sunset Review of the *Energy and Water Ombudsman Regulation 2007* was undertaken by the Department of Energy and Public Works which assessed the regulation for its effectiveness, efficiency and impact on competition. The review found that the Regulation was effective, efficient and did not impact customers or stakeholders.

The Office of Best Practice Regulation was consulted and confirmed that the review was compliant with the requirements under the *Queensland Government Guide to Better Regulation*.

EWOQ has been consulted and supports the Regulation.