

# National Electricity (Western Australia) Bill 2016

## Contents

<b>Part 1 — Preliminary</b>		
1.	Short title	2
2.	Commencement	2
3.	Terms used	2
4.	Crown bound	3
5.	Extra-territorial operation	3
<b>Part 2 — Application of the National Electricity Law and regulations</b>		
6.	Application of National Electricity Law	4
7.	Application of regulations under National Electricity Law	4
8.	Interpretation of some terms in National Electricity (WA) Law and National Electricity (WA) Regulations	4
9.	<i>Interpretation Act 1984</i> does not apply	5
10.	Extension of reading down provision	5
<b>Part 3 — Local provisions</b>		
<b>Division 1 — Regulations</b>		
11.	Regulations	6
12.	Regulations: modification of National Electricity Law, National Electricity Regulations and National Electricity Rules	7
<b>Division 2 — Transitional matters</b>		
13.	Terms used	8
14.	Regulations: transitional matters	9

**Contents**

---

15.	Effect of certain provisions of National Electricity (WA) Law prior to 1 July 2018	11
16.	Exercise of powers under provisions not yet in effect	11
17.	Authorisation of preparatory steps by AER or AEMO	13
18.	Provision of information and assistance by ERA	13
<b>Part 4 — Modifications to National Electricity Law</b>		
<b>Division 1 — Preliminary matters</b>		
19.	Modifications to National Electricity Law	16
<b>Division 2 — Continuing modifications</b>		
20.	Section 2 modified	16
21.	Section 2AAA inserted	19
	2AAA. References to AEMO in relation to prescribed local electricity systems	19
22.	Section 2AA modified	20
23.	Section 2D modified	20
24.	Section 6A deleted	20
25.	Section 8 modified	20
26.	Section 9 modified	21
27.	Part 2 heading replaced	21
<b>Part 2 — Participation in local electricity systems</b>		
28.	Section 11 modified	21
29.	Section 12 deleted	24
30.	Section 13 modified	24
31.	Section 14 modified	24
32.	Section 15 modified	25
33.	Section 16 modified	25
34.	Section 28V modified	25
35.	Section 28ZD modified	25
36.	Section 28ZH modified	26
37.	Section 28ZI modified	26
38.	Section 32A inserted	26
	32A. Manner in which AEMC has regard to national electricity objective	26
39.	Section 34 modified	27
40.	Section 38 modified	28
41.	Section 46 modified	28

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42.	Section 49 modified	29
43.	Section 54G modified	30
44.	Section 62 modified	30
45.	Section 71P modified	30
46.	Section 87 modified	31
47.	Section 88 modified	32
48.	Section 88AA inserted	32
	88AA. AEMC may only make differential Rule in certain cases	32
49.	Sections 88A and 88B modified	33
50.	Section 89 modified	33
51.	Section 91 modified	33
52.	Section 91A modified	34
53.	Section 95A inserted	34
	95A. Notice to Minister of proposed Rule	34
54.	Section 99 modified	35
55.	Section 102 modified	35
56.	Section 108B inserted	36
	108B. Part has no effect	36
57.	Section 118B modified	36
58.	Section 120 modified	36
59.	Schedule 1 modified	37
60.	Schedule 3 Part 1A inserted	38
	<b>Part 1A — Parts 2 to 12 have no effect</b>	
	1A. Parts 2 to 12 have no effect	38
	<b>Division 3 — Modifications expiring on 1 July 2018</b>	
61.	Part 2 Division 1A inserted	38
	<b>Division 1A — Part deferred until 1 July 2018</b>	
	10B. Part deferred until 1 July 2018	38
62.	Part 5 Division 1A inserted	38
	<b>Division 1A — Part deferred until 1 July 2018</b>	
	48A. Part deferred until 1 July 2018	38
63.	Part 8A Division 1A inserted	39
	<b>Division 1A — Part deferred until 1 July 2018</b>	
	118AA. Part deferred until 1 July 2018	39
64.	Part 10 Division 1A inserted	39
	<b>Division 1A — Part deferred until 1 July 2018</b>	
	122A. Part deferred until 1 July 2018	39
65.	Section 157 modified	39

Contents

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	<b>Division 4 — Modification expiring on day prescribed</b>	
66.	Section 49 modified	40
	<b>Defined terms</b>	

Western Australia

LEGISLATIVE COUNCIL

**National Electricity (Western Australia)  
Bill 2016**

**A Bill for**

**An Act to apply, as a law of Western Australia, a national law to provide for access to, and the regulation of, certain electricity network services, to make interim arrangements, and for related purposes.**

The Parliament of Western Australia enacts as follows:

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## **Part 1 — Preliminary**

### **1. Short title**

This is the *National Electricity (Western Australia) Act 2016*.

### **2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation and different days may be fixed for different provisions.

### **3. Terms used**

(1) In this Act —

*Electricity Networks Corporation* means the body established by the *Electricity Corporations Act 2005* section 4(1)(b);

*National Electricity (South Australia) Act 1996* means the *National Electricity (South Australia) Act 1996* (South Australia);

*National Electricity (WA) Law* means the provisions applying because of section 6;

*National Electricity (WA) Regulations* means the provisions applying because of section 7;

*National Electricity (WA) Rules* means the National Electricity Rules as they have effect as a law of the State because of the National Electricity (WA) Law section 9.

(2) Words and expressions used in the National Electricity (WA) Law (whether or not defined in section 8(1)) and in this Act have the same respective meanings in this Act as they have in that Law.

(3) Subsection (2) does not apply to the extent to which the context or subject matter otherwise indicates or requires.

1   **4.       Crown bound**

2           This Act, the National Electricity (WA) Law and the National  
3           Electricity (WA) Regulations bind the Crown, not only in right  
4           of Western Australia but also, so far as the legislative power of  
5           the Parliament permits, the Crown in all its other capacities.

6   **5.       Extra-territorial operation**

7           It is the intention of the Parliament that the operation of this  
8           Act, the National Electricity (WA) Law and the National  
9           Electricity (WA) Regulations should, so far as possible, include  
10          operation in relation to the following —

- 11           (a) land situated outside Western Australia, whether in or  
12           outside Australia;
- 13           (b) things situated outside Western Australia, whether in or  
14           outside Australia;
- 15           (c) acts, transactions and matters done, entered into or  
16           occurring outside Western Australia, whether in or  
17           outside Australia;
- 18           (d) things, acts, transactions and matters (wherever situated,  
19           done, entered into or occurring) that would, apart from  
20           this Act, be governed or otherwise affected by the law of  
21           the Commonwealth, another State, a Territory or a  
22           foreign country.



1                                    Schedule to the *National Electricity (South Australia)*  
2                                    *Act 1996*;

3                                    ***the jurisdiction or this jurisdiction*** means the State.

4                    (2)    The *Acts Interpretation Act 1915*, and other Acts, of South  
5                    Australia do not apply to the National Electricity (WA) Law, the  
6                    National Electricity (WA) Regulations, the National Electricity  
7                    (WA) Rules or instruments under them.

8                    **9.                    *Interpretation Act 1984* does not apply**

9                                    The *Interpretation Act 1984* does not apply to the National  
10                                    Electricity (WA) Law, the National Electricity (WA)  
11                                    Regulations, the National Electricity (WA) Rules or instruments  
12                                    under them.

13                    **10.                    Extension of reading down provision**

14                    (1)    The National Electricity (WA) Law Schedule 2 clause 2 has  
15                    effect in relation to the operation of a provision of this Act, or  
16                    an instrument under it, as if the provision formed part of that  
17                    Law.

18                    (2)    Subsection (1) does not limit the effect that a provision would  
19                    validly have apart from that subsection.

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## **Part 3 — Local provisions**

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### **Division 1 — Regulations**

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#### **11. Regulations**

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(1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to this Act.

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(2) Regulations may be made for any purpose contemplated by the National Electricity (WA) Law as a purpose for which regulations may be made under this Act as the application Act of this jurisdiction.

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(3) The regulations may —

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(a) confer functions, or authorise the National Electricity (WA) Rules to confer functions, on a person; and

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(b) provide for the relationship between the Minister, or another Minister of the State, and a person referred to in paragraph (a) in respect of the performance of the functions of the person.

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(4) A person on whom functions may be conferred under subsection (3)(a) includes a person from time to time holding, acting in or lawfully performing the functions of, an office under a written law.

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(5) The regulations, or an instrument under them, may apply, adopt or incorporate the whole or a part of a legislative instrument, or other published document, relating to the purposes of this Act —

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(a) with or without modifications; or

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(b) as in force at a particular time or from time to time.

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- 1    **12.    Regulations: modification of National Electricity Law,**  
2    **National Electricity Regulations and National Electricity**  
3    **Rules**
- 4    (1)    The regulations may —
- 5           (a)    amend Part 4, but only to the extent necessary or  
6                   convenient for the purpose of enabling the effective  
7                   operation of the National Electricity (WA) Law as a law  
8                   of the State; and
- 9           (b)    set out modifications to the regulations under the  
10                   *National Electricity (South Australia) Act 1996* Part 4  
11                   for the purposes of section 7; and
- 12           (c)    modify the operation of the National Electricity Rules  
13                   for the purpose of their having effect as a law of the  
14                   State under the National Electricity (WA) Law section 9  
15                   or provide for the Minister, by instrument, to do so.
- 16    (2)    Without limiting subsection (1), modifications for the purposes  
17           of subsection (1)(b) or (c) —
- 18           (a)    may include modifications that are particular to a  
19                   transmission or distribution system or a local electricity  
20                   system; and
- 21           (b)    may deal with transitional, application and savings  
22                   matters.
- 23    (3)    Without limiting subsections (1) and (2), modifications to the  
24           National Electricity Rules may —
- 25           (a)    provide for a voltage threshold for distinguishing  
26                   between transmission and distribution systems and  
27                   provide that specified apparatus, electricity lines,  
28                   equipment, plant and buildings are, or are not, a part of a  
29                   transmission or distribution system despite the  
30                   threshold; and
- 31           (b)    exempt the Electricity Networks Corporation from any  
32                   requirement to comply with ring-fencing guidelines  
33                   under the National Electricity (WA) Rules; and

- 1 (c) require the AER to treat deferred revenue amounts of  
2 the Electricity Networks Corporation in a way that is  
3 provided for in the modifications; and
- 4 (d) provide for the tariff equalisation scheme under the  
5 *Electricity Industry Act 2004* Part 9A to be a  
6 jurisdictional scheme.
- 7 (4) For the purposes of subsection (3)(c) —  
8 ***deferred revenue amounts*** means the amounts of deferred  
9 revenue of the Electricity Networks Corporation covered by the  
10 Electricity Network Access Code sections 6.5A to 6.5E;  
11 ***Electricity Network Access Code*** means the Code in force under  
12 the *Electricity Industry Act 2004* Part 8 and, on and after  
13 1 July 2018, means that Code as in force immediately before  
14 1 July 2018.
- 15 (5) Regulations made for the purposes of subsection (1)(c) must not  
16 authorise the Minister to make an instrument referred to in that  
17 subsection on or after 1 July 2019.
- 18 (6) As soon as practicable after a modification instrument is made,  
19 the Minister must give a copy of the modification instrument to  
20 the AEMC.
- 21 (7) In subsection (6) —  
22 ***modification instrument*** means regulations made for the  
23 purposes of subsection (1)(c) or an instrument made under such  
24 regulations.

25 **Division 2 — Transitional matters**

26 **13. Terms used**

- 27 In this Division —  
28 ***ERA*** means the Economic Regulation Authority established by  
29 the *Economic Regulation Authority Act 2003* section 4(1);  
30 ***transitional matters*** includes matters of an application or  
31 savings nature;

1            *transition period* means the period that begins on the day on  
2            which this section comes into operation and ends immediately  
3            before 1 July 2018.

4    **14. Regulations: transitional matters**

5            (1) The regulations may make provision for transitional matters  
6            relating to the coming into effect of the National Electricity  
7            (WA) Law, the National Electricity (WA) Regulations and the  
8            National Electricity (WA) Rules.

9            (2) Without limiting subsection (1), the regulations may —

10            (a) provide for the effect (if any) that the following have for  
11            the purposes of the National Electricity (WA) Law, the  
12            National Electricity (WA) Regulations or the National  
13            Electricity (WA) Rules —

14            (i) a document, agreement or instrument made or  
15            given, or a thing done or omitted to be done,  
16            before or during the transition period under or for  
17            the purposes of a provision of the *Electricity*  
18            *Industry Act 2004* or an instrument under it;

19            (ii) a document or instrument made or given, or a  
20            thing done or omitted to be done, before or  
21            during the transition period for the purposes of a  
22            provision of the non-WA NEL provisions;

23            (b) provide for matters arising in connection with the  
24            transfer of a function from one person to another person;

25            (c) provide for the determination, charging and recovery, on  
26            and after 1 July 2018, of fees and charges for the  
27            recovery of costs incurred by AEMO —

28            (i) after 1 July 2016 and before 1 July 2018, in  
29            preparing to carry out functions or provide  
30            services, on or after 1 July 2018, under this Act,  
31            the National Electricity (WA) Law or the  
32            National Electricity (WA) Rules; or

- 1 (ii) on or after the day on which section 6 comes into  
2 operation and before 1 July 2018, in exercising a  
3 power under the National Electricity (WA) Law  
4 Schedule 2 clause 27 as it applies because of  
5 section 16;
- 6 (d) provide for and in relation to the relationship between  
7 the National Electricity (WA) Law and the *Electricity*  
8 *Industry Act 2004*, including by providing for how that  
9 Law, the National Electricity (WA) Regulations and the  
10 National Electricity (WA) Rules have effect in relation  
11 to matters and things affected by the *Electricity Industry*  
12 *Act 2004* and instruments under it.
- 13 (3) For the purposes of this section, a reference to the transfer of a  
14 function from one person to another person is a reference to —
- 15 (a) the first person ceasing at a time during, or at the end of,  
16 the transition period to have a function under the  
17 *Electricity Industry Act 2004* or an instrument under it;  
18 and
- 19 (b) the other person beginning at that time to have a  
20 corresponding or related function under the National  
21 Electricity (WA) Law, the National Electricity (WA)  
22 Regulations or the National Electricity (WA) Rules.
- 23 (4) In subsection (2)(a)(ii) —  
24 ***non-WA NEL provisions*** means the provisions of the  
25 following —
- 26 (a) the National Electricity Law set out in the Schedule to  
27 the *National Electricity (South Australia) Act 1996* as  
28 applied as a law of the other participating jurisdictions;
- 29 (b) the regulations under the *National Electricity (South*  
30 *Australia) Act 1996* Part 4 as applied as a law of the  
31 other participating jurisdictions;
- 32 (c) the National Electricity Rules as applied under the  
33 National Electricity Law set out in the Schedule to the

1 *National Electricity (South Australia) Act 1996* as  
2 applied as a law of the other participating jurisdictions.

3 (5) In relation to the functions of AEMO referred to in the National  
4 Electricity (WA) Law section 49(1)(f), subsection (2)(c) has  
5 effect as if the references to 1 July 2018 were references to the  
6 day prescribed for the purposes of section 19(3).

7 **15. Effect of certain provisions of National Electricity (WA)**  
8 **Law prior to 1 July 2018**

9 (1) The provisions of the National Electricity (WA) Law Parts 3,  
10 5B and 6 do not have effect during the transition period except  
11 to the extent necessary for the exercise of, or the review of the  
12 exercise of, AER economic regulatory functions and powers in  
13 respect of the Electricity Networks Corporation.

14 (2) For the purposes of this section, the Electricity Networks  
15 Corporation is, during the transition period, to be treated as if it  
16 were a network service provider or regulated network service  
17 provider (as the case requires).

18 (3) Subsection (2) does not limit the modifications that may be  
19 made to the National Electricity Rules for the purposes of this  
20 section.

21 **16. Exercise of powers under provisions not yet in effect**

22 (1) In this section —

23 ***modification*** means —

24 (a) for a provision of the National Electricity (WA) Law —  
25 a modification set out in Part 4 Division 3 or 4; or

26 (b) for a provision of the National Electricity (WA)  
27 Regulations — a modification set out in regulations  
28 made for the purposes of section 12(1)(b); or

29 (c) for a provision of the National Electricity (WA)  
30 Rules — a modification set out in or made under  
31 regulations made for the purposes of section 12(1)(c).

- 1 (2) Subsection (3) applies to a provision of the National Electricity  
2 (WA) Law, National Electricity (WA) Regulations or National  
3 Electricity (WA) Rules (the *deferred provision*) if —
- 4 (a) the provision does not have effect because of a  
5 modification; and
- 6 (b) the modification will cease to have effect on 1 July 2018  
7 or, in the case of the modification set out in Part 4  
8 Division 4, the day prescribed for the purposes of  
9 section 19(3).
- 10 (3) The National Electricity (WA) Law Schedule 2 clause 27 has  
11 effect in relation to the deferred provision as if —
- 12 (a) a reference in that clause to a provision of the Law that  
13 does not commence on its enactment were a reference to  
14 the deferred provision; and
- 15 (b) a reference in that clause to the commencement of the  
16 provision were a reference to the deferred provision  
17 beginning to have effect because of the cessation of the  
18 modification.
- 19 (4) Subsection (5) applies to a provision of the National Electricity  
20 (WA) Law (the *limited provision*) if the provision does not have  
21 effect, to some extent, because of section 15.
- 22 (5) The National Electricity (WA) Law Schedule 2 clause 27 has  
23 effect in relation to the limited provision, to the extent to which  
24 it does not have effect because of section 15, as if —
- 25 (a) a reference in that clause to a provision of the Law that  
26 does not commence on its enactment were a reference to  
27 the limited provision to the extent to which it does not  
28 have effect because of section 15; and
- 29 (b) a reference in that clause to the commencement of the  
30 provision were a reference to the limited provision  
31 ceasing to be limited by section 15.

1    **17.      Authorisation of preparatory steps by AER or AEMO**

2            (1) This section applies if —

3                    (a) the AER or AEMO is required to do something (a  
4                                *preparatory step*) before making a decision or making  
5                                an instrument under a provision (the *provision*) of the  
6                                National Electricity (WA) Law, the National Electricity  
7                                (WA) Regulations or the National Electricity (WA)  
8                                Rules; and

9                    (b) the AER or AEMO takes the preparatory step during the  
10                                transition period.

11            (2) For the purposes of the provision, the AER or AEMO is taken,  
12                                on and after 1 July 2018, to have complied with the requirement  
13                                to take the preparatory step.

14            (3) This section does not apply in relation to the provision to the  
15                                extent to which the provision has effect before 1 July 2018.

16            (4) In relation to the functions of AEMO referred to in the National  
17                                Electricity (WA) Law section 49(1)(f), subsections (1) to (3)  
18                                have effect as if —

19                    (a) the references to 1 July 2018 were references to the day  
20                                prescribed for the purposes of section 19(3); and

21                    (b) the transition period ended immediately before that day.

22    **18.      Provision of information and assistance by ERA**

23            (1) Despite any other Act or law, the ERA is authorised, on its own  
24                                initiative or at the request of the AER —

25                    (a) to provide the AER with information (including  
26                                information given in confidence) in the possession or  
27                                control of the ERA that is reasonably required by the  
28                                AER to perform a function under the National  
29                                Electricity (WA) Law, the National Electricity (WA)  
30                                Regulations or the National Electricity (WA) Rules; and

- 1 (b) to provide the AER with other assistance that is  
2 reasonably required by the AER to perform a function  
3 under the National Electricity (WA) Law, the National  
4 Electricity (WA) Regulations or the National Electricity  
5 (WA) Rules.
- 6 (2) Despite any Act or other law, the ERA may authorise the AER  
7 to disclose information provided under subsection (1) even if  
8 the information was given in confidence.
- 9 (3) Nothing done, or authorised to be done, by the ERA under  
10 subsection (1) or (2) —
- 11 (a) contravenes the *Economic Regulation Authority*  
12 *Act 2003* section 57; or
- 13 (b) constitutes a breach of, or default under, any other Act  
14 or law; or
- 15 (c) constitutes a breach of, or default under, a contract,  
16 agreement, undertaking or understanding; or
- 17 (d) constitutes a breach of a duty of confidence (whether  
18 arising by contract, in equity, by custom or in any other  
19 way); or
- 20 (e) constitutes a civil or criminal wrong.
- 21 (4) A reference in this section to the AER performing a function  
22 under the National Electricity (WA) Law, the National  
23 Electricity (WA) Regulations or the National Electricity (WA)  
24 Rules includes a reference to the AER —
- 25 (a) performing a function under the National Electricity  
26 (WA) Law Schedule 2 clause 27 as it applies because of  
27 section 16 of this Act; or
- 28 (b) preparing, during the transition period, to perform a  
29 function that the AER will have under the National  
30 Electricity (WA) Law, the National Electricity (WA)  
31 Regulations or the National Electricity (WA) Rules on  
32 or after 1 July 2018.

- 1 (5) It is a function of the AER to receive information and assistance  
2 provided to it under this section.

1 **Part 4 — Modifications to National Electricity Law**

2 **Division 1 — Preliminary matters**

3 **19. Modifications to National Electricity Law**

- 4 (1) This Part sets out modifications for the purposes of section 6.  
5 (2) Division 3 ceases to have effect on 1 July 2018.  
6 (3) Division 4 ceases to have effect on the day prescribed for the  
7 purposes of this subsection.

8 **Division 2 — Continuing modifications**

9 **20. Section 2 modified**

- 10 (1) In section 2(1) delete the definitions of:  
11 *energy ombudsman*  
12 *interconnected national electricity system*  
13 *Registered participant*  
14 *Regulations*  
15 *retailer*

- 16 (2) In section 2(1) insert in alphabetical order:

17  
18 *energy ombudsman* means the electricity ombudsman  
19 as defined in the *Electricity Industry Act 2004*  
20 section 90;

21 *interconnected national electricity system* means the  
22 interconnected transmission and distribution system in  
23 the participating jurisdictions (other than the Northern  
24 Territory and this jurisdiction) used to convey and  
25 control the conveyance of electricity to which are  
26 connected —

- 27 (a) generating systems and other facilities; and

1 (b) loads settled through the wholesale exchange  
2 operated and administered by AEMO in the  
3 participating jurisdictions (other than the  
4 Northern Territory and this jurisdiction);

5 **local electricity system** means —

6 (a) the South West Interconnected System; or

7 (b) a transmission or distribution system, or an  
8 interconnected transmission and distribution  
9 system, prescribed by local regulations for the  
10 purposes of this definition, and the generating  
11 systems and other facilities connected to the  
12 system;

13 **local regulations** means regulations made under the  
14 application Act of this jurisdiction;

15 **local system operator**, in relation to a local electricity  
16 system other than the SWIS, means the person  
17 prescribed by local regulations for the purposes of this  
18 definition in relation to the system;

19 **Registered participant**, of a local electricity system,  
20 means a person who is registered as such under a  
21 scheme of registration under local regulations;

22 **Regulations** means —

23 (a) the regulations made under the *National*  
24 *Electricity (South Australia) Act 1996* of South  
25 Australia Part 4 as they have effect as a law of  
26 this jurisdiction because of the WA Application  
27 Act section 7; or

28 (b) if the contrary intention appears or the context  
29 otherwise requires — the regulations made  
30 under the *National Electricity (South Australia)*  
31 *Act 1996* of South Australia Part 4;

32 **retailer** has the meaning given to that term in the  
33 jurisdictional electricity legislation of this jurisdiction;

- 1                    **South West Interconnected System** or **SWIS** means —
- 2                    (a) the interconnected transmission and distribution
- 3                    system used to convey and control the
- 4                    conveyance of electricity to which are
- 5                    connected loads settled through the wholesale
- 6                    electricity market; and
- 7                    (b) the generating systems and other facilities
- 8                    connected to that interconnected system;
- 9                    **WA Application Act** means the *National Electricity*
- 10                   *(Western Australia) Act 2016*;
- 11                   **wholesale electricity market** means the market
- 12                   established under the *Electricity Industry Act 2004*
- 13                   Part 9.
- 14
- 15                   (3) In section 2(1) in the definition of **national electricity market**
- 16                   delete paragraph (a) and insert:
- 17
- 18                                    (a) the wholesale exchange operated and
- 19                                    administered by AEMO in the participating
- 20                                    jurisdictions (other than the Northern Territory
- 21                                    and this jurisdiction); and
- 22
- 23                   (4) In section 2(1) in the definition of **network service provider**
- 24                   delete “the interconnected national electricity system;” and
- 25                   insert:
- 26
- 27                   a local electricity system;
- 28

- 1           (5) In section 2(1) in the definition of *VENCorp* delete “force.” and  
2           insert:  
3  
4           force;  
5  
6           (6) After section 2(2) insert:  
7  
8           (3) A reference in this Law to the National Electricity  
9           Rules or the Rules is a reference to the Rules as  
10           modified under the WA Application Act, unless the  
11           contrary intention appears or the context otherwise  
12           requires.
- 13           (4) A reference in the definition of *additional Minister*  
14           *initiated Rules*, *initial National Electricity Rules*,  
15           *National Electricity Rules* or *Rules* to Rules made  
16           under this Law or a provision of this Law —  
17           (a) includes a reference to Rules made before the  
18           day on which the WA Application Act  
19           section 6 comes into operation; and  
20           (b) is, in relation to Rules made before that day, a  
21           reference to Rules made under, or made under  
22           the corresponding provision of, this Law as  
23           applied as a law of the other participating  
24           jurisdictions.  
25

26   **21. Section 2AAA inserted**

27           After section 2 insert:

29           **2AAA. References to AEMO in relation to prescribed local**  
30           **electricity systems**

- 31           (1) This section applies to a local electricity system that is  
32           a local electricity system because of paragraph (b) of  
33           the definition of *local electricity system*.

1 (2) The provisions of this Law listed in local regulations in  
2 relation to the system for the purposes of this section  
3 have effect, in their application to or in relation to the  
4 system, as if references in them to AEMO were instead  
5 references to the local system operator of the system.

6 (3) A provision of this Law may be listed in the  
7 regulations to an extent specified.  
8

9 **22. Section 2AA modified**

10 In section 2AA(1) in the Table delete “Section 11(1), (2), (3) and  
11 (4)” and insert:  
12

13 Section 11(1), (2) and (4)  
14

15 **23. Section 2D modified**

16 (1) Delete section 2D(1)(b)(ia).

17 (2) In section 2D(2)(b) delete “Rules, the National Energy Retail  
18 Law or the National Energy Retail”.

19 (3) In section 2D delete note 2.

20 **24. Section 6A deleted**

21 Delete section 6A.

22 **25. Section 8 modified**

23 After section 8(2) insert:  
24

25 (2a) For the purposes of subsection (2), the MCE must  
26 regard the reference in the national electricity objective  
27 to the national electricity system as a reference to  
28 whichever of the following the MCE considers  
29 appropriate in the circumstances —

30 (a) the national electricity system; or



**National Electricity (Western Australia) Bill 2016**

**Part 4** Modifications to National Electricity Law

**Division 2** Continuing modifications

**s. 28**

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- 1 (c) in paragraph (b) delete “person, or is otherwise  
2 exempted by AEMO,” and insert:  
3  
4 person  
5  
6 (d) in paragraph (b) delete “under this Law and the Rules.”  
7 and insert:  
8  
9 and that system under this Law and the Rules; or  
10  
11 (e) after paragraph (b) insert:  
12  
13 (c) the person is exempt from the requirement to be  
14 a Registered participant in relation to that  
15 activity and that system under local regulations.  
16  
17 (2) In section 11(2):  
18 (a) delete “the interconnected national electricity system”  
19 and insert:  
20  
21 a local electricity system  
22  
23 (b) in paragraph (a) delete “activity; or” and insert:  
24  
25 activity and that system; or  
26  
27 (c) in paragraph (b) delete “under this Law and the Rules.”  
28 and insert:  
29  
30 and that system under this Law and the Rules; or  
31

- 1                   (d) after paragraph (b) insert:  
2
- 3                   (c) the person is exempt from the requirement to be  
4                               a Registered participant in relation to that  
5                               activity and that system under local regulations.  
6
- 7           (3) Delete section 11(3).
- 8           (4) In section 11(4):
- 9                   (a) in paragraph (b) delete “person, or is otherwise  
10                               exempted by AEMO,” and insert:  
11
- 12                               person  
13
- 14                   (b) in paragraph (b) delete “Rules.” and insert:  
15
- 16                               Rules; or  
17
- 18                   (c) after paragraph (b) insert:  
19
- 20                               (c) the person is exempt from the requirement to be  
21                               a Registered participant in relation to that  
22                               activity under local regulations.  
23
- 24           (5) After section 11(4) insert:  
25
- 26                   (5) In subsection (4) —  
27                               **wholesale exchange** means —
- 28                               (a) in relation to the South West Interconnected  
29                               System — the wholesale electricity market; and  
30                               (b) in relation to any other local electricity  
31                               system — the market prescribed by local

1 regulations in relation to the system for the  
2 purposes of this definition.  
3

4 Note: The heading to modified section 11 is to read:

5 **Engaging in certain activities in relation to local electricity**  
6 **systems**

7 **29. Section 12 deleted**

8 Delete section 12.

9 **30. Section 13 modified**

10 In section 13(1):

11 (a) after “section 11(2)” insert:

12  
13 in relation to a local electricity system  
14

15 (b) after “that activity” insert:

16  
17 and that system  
18

19 **31. Section 14 modified**

20 (1) In section 14(1):

21 (a) delete “section 12 or 13” and insert:

22  
23 local regulations or section 13  
24

25 (b) delete the note.

26 (2) In section 14(2) in the definition of *authorised officer* delete  
27 paragraph (a) and insert:

28  
29 (a) for issuing a certificate that a person is a  
30 Registered participant or exempted from

1 registration under local regulations — the  
2 person who registered the Registered  
3 participant or granted the exemption (the  
4 **authority**) or a person authorised by the  
5 authority for that purpose; or  
6

7 **32. Section 15 modified**

8 In section 15(1)(e) after “distribution system” (2<sup>nd</sup> occurrence)  
9 insert:

10  
11 or a local electricity system  
12

13 **33. Section 16 modified**

14 After section 16(1) insert:

15  
16 (1a) For the purposes of subsection (1)(a) and (d), the AER  
17 must regard the reference in the national electricity  
18 objective to the national electricity system as a  
19 reference to one or more or all of the local electricity  
20 systems, whichever the AER considers appropriate in  
21 the circumstances.  
22

23 **34. Section 28V modified**

24 Delete section 28V(4A).

25 **35. Section 28ZD modified**

26 In section 28ZD:

27 (a) in paragraph (b) delete “Rules; or” and insert:

28

29 Rules.  
30

1 (b) delete paragraph (c).

2 **36. Section 28ZH modified**

3 In section 28ZH(1):

4 (a) in paragraph (b) delete “Rules;” and insert:

5

6 Rules,

7

8 (b) delete paragraphs (c) and (d).

9 **37. Section 28ZI modified**

10 In section 28ZI(1):

11 (a) in paragraph (b) delete “Rules;” and insert:

12

13 Rules.

14

15 (b) delete paragraphs (c) and (d).

16 **38. Section 32A inserted**

17 After section 32 insert:

18

19 **32A. Manner in which AEMC has regard to national**  
20 **electricity objective**

21 Subject to section 88(2a), for the purposes of this Law,  
22 the AEMC must regard the reference in the national  
23 electricity objective to the national electricity system as  
24 a reference to whichever of the following the AEMC  
25 considers appropriate in the circumstances —

26 (a) the national electricity system; or

27 (b) one or more or all of the local electricity  
28 systems; or

- 1                                   (c) all or any combination of the systems referred  
2                                   to in paragraphs (a) and (b).  
3

4 **39. Section 34 modified**

- 5 (1) In section 34(1)(a):

- 6                   (a) after subparagraph (ii) insert:

- 7  
8                                   (iiia) the operation of one or more or all of  
9                                   the local electricity systems for the  
10                                   purposes of the safety, security and  
11                                   reliability of those systems;  
12

- 13                   (b) after subparagraph (iii) insert:

- 14  
15                                   (iiia) the activities of persons (including  
16                                   Registered participants) involved in the  
17                                   operation of a local electricity system;  
18

- 19 (2) After section 34(3)(b) insert:

- 20  
21                   (ba) vary in their terms as between—

- 22                                   (i) the national electricity system; and  
23                                   (ii) one or more or all of the local electricity  
24                                   systems;

- 25                   (bb) have no effect with respect to one or more of  
26                                   the systems referred to in paragraph (ba);  
27

1 **40. Section 38 modified**

2 (1) In section 38(2):

3 (a) in paragraph (a) delete “national electricity system; and”  
4 and insert:

5

6 national electricity system and the local electricity  
7 systems; and

8

9 (b) in paragraph (b) delete “national electricity system; and”  
10 and insert:

11

12 national electricity system or, in accordance with the  
13 Rules, one or more or all of the local electricity systems;  
14 and

15

16 (2) In section 38(4) delete “national electricity system.” and insert:

17

18 national electricity system or, in accordance with the Rules, one  
19 or more or all of the local electricity systems.

20

21 **41. Section 46 modified**

22 (1) In section 46 delete “The AEMC” and insert:

23

24 (1) Subject to subsection (2), the AEMC

25

- 1           (2) At the end of section 46 insert:  
2
- 3           (2) The AEMC must update the copies of the National  
4           Electricity Rules referred to in subsection (1) to reflect  
5           each modification provided for by a modification  
6           instrument —
- 7                   (a) if notified of the making of the modification  
8                   instrument at least 10 business days before the  
9                   modification commences — on the day the  
10                  modification commences; or
- 11                  (b) otherwise — within 10 business days of being  
12                  notified of the making of the modification  
13                  instrument.
- 14           (3) In this section —
- 15                   *modification* means a modification to the National  
16                   Electricity Rules under the WA Application Act;
- 17                   *modification instrument* means regulations made for  
18                   the purposes of the WA Application Act  
19                   section 12(1)(c) or an instrument made under such  
20                   regulations;
- 21                   *notified* means notified by the Minister of this  
22                   jurisdiction.  
23
- 24   **42. Section 49 modified**
- 25           (1) In section 49(1)(a) and (b) before “to” insert:  
26
- 27                   in the participating jurisdictions (other than the Northern  
28                   Territory and this jurisdiction) —  
29
- 30           (2) Delete section 49(2).

1 (3) After section 49(3) insert:

2

3 (4) For the purposes of subsection (3), the AEMO must  
4 regard the reference in the national electricity objective  
5 to the national electricity system as a reference to one  
6 or more or all of the local electricity systems,  
7 whichever the AEMO considers appropriate in the  
8 circumstances.

9

10 **43. Section 54G modified**

11 After section 54G(1)(a)(ii) insert:

12

13 (iii) the safety, reliability or security of a  
14 local electricity system;

15 or

16

17 **44. Section 62 modified**

18 In section 62(b) delete “AEMO.” and insert:

19

20 AEMO in the participating jurisdictions (other than the  
21 Northern Territory and this jurisdiction).

22

23 **45. Section 71P modified**

24 After section 71P(2c) insert:

25

26 (2d) For the purposes of subsection (2a)(c) and (2b)(c), the  
27 Tribunal must regard the reference in the national  
28 electricity objective to the national electricity system as  
29 a reference to one or more or all of the local electricity  
30 systems, whichever the Tribunal considers appropriate  
31 in the circumstances.

32

1 **46. Section 87 modified**

2 (1) In section 87(1) delete the definition of *urgent Rule*.

3 (2) In section 87(1) insert in alphabetical order:

4

5 *differential Rule* means a Rule that —

6 (a) varies in its terms as between —

7 (i) the national electricity system; and

8 (ii) one or more or all of the local electricity  
9 systems;

10 or

11 (b) does not have effect with respect to one or more  
12 of those systems,

13 but is not a jurisdictional derogation, participant  
14 derogation or Rule that has effect with respect to an  
15 adoptive jurisdiction for the purpose of section 91(8);

16 *uniform Rule* means a Rule that —

17 (a) does not vary in its terms as between —

18 (i) the national electricity system; and

19 (ii) one or more or all of the local electricity  
20 systems;

21 and

22 (b) has effect with respect to all of those systems;

23 *urgent Rule* means a Rule relating to any matter or  
24 thing that, if not made as a matter of urgency, will  
25 result in that matter or thing imminently prejudicing or  
26 threatening —

27 (a) the effective operation or administration of the  
28 wholesale exchange operated and administered  
29 by AEMO in the participating jurisdictions  
30 (other than the Northern Territory and this  
31 jurisdiction); or

- 1 (b) the safety, security or reliability of —  
2 (i) the national electricity system; or  
3 (ii) a local electricity system.  
4

5 **47. Section 88 modified**

6 After section 88(1) insert:  
7

- 8 (2a) For the purposes of this Part, the AEMC must regard  
9 the reference in the national electricity objective to the  
10 national electricity system as a reference to whichever  
11 of the following the AEMC considers appropriate in  
12 the circumstances having regard to the nature, scope or  
13 operation of the proposed Rule —  
14 (a) the national electricity system; or  
15 (b) one or more or all of the local electricity  
16 systems; or  
17 (c) all or any combination of the systems referred  
18 to in paragraphs (a) and (b).  
19

20 **48. Section 88AA inserted**

21 After section 88 insert:  
22

23 **88AA. AEMC may only make differential Rule in certain**  
24 **cases**

- 25 (1) In addition to complying with sections 88, 88A and  
26 88B, the AEMC may only make a Rule if it is satisfied  
27 that it is a uniform Rule.  
28 (2) Despite subsection (1), the AEMC may make a  
29 differential Rule if the AEMC is satisfied that, having  
30 regard to any relevant MCE statement of policy

1 principles, the differential Rule will, or is likely to,  
2 better contribute to the achievement of the national  
3 electricity objective than a uniform Rule.

- 4 (3) This section does not apply in relation to —
- 5 (a) a jurisdictional derogation requested under  
6 section 91(3); or
  - 7 (b) a participant derogation requested under  
8 section 91(5) or (6); or
  - 9 (c) a Rule that has effect with respect to an  
10 adoptive jurisdiction for the purpose of  
11 section 91(8).
- 12

13 **49. Sections 88A and 88B modified**

14 In sections 88A and 88B delete “88” and insert:

15  
16 88, 88AA  
17

18 **50. Section 89 modified**

19 In section 89(c) after “national electricity system” insert:

20  
21 or a local electricity system  
22

23 **51. Section 91 modified**

24 After section 91(1) insert:

- 25  
26 (1a) A request under subsection (1) may include a request  
27 that the AEMC make a differential Rule.  
28

1 **52. Section 91A modified**

2 (1) In section 91A delete “The AEMC” and insert:

3

4 (1) The AEMC

5

6 (2) At the end of section 91A insert:

7

8 (2) To avoid doubt, the AEMC may, in accordance with  
9 section 88AA, make a more preferable Rule that is a  
10 differential Rule, whether or not the request for the  
11 market initiated proposed Rule (to which the more  
12 preferable Rule relates) proposed the making of a  
13 differential Rule.  
14

15 **53. Section 95A inserted**

16 After section 95 insert:

17

18 **95A. Notice to Minister of proposed Rule**

19 (1) This section applies if —

20 (a) the AEMC considers that it should take action  
21 under this Division in respect of a request for  
22 the making of a Rule; and

23 (b) the request included a request that the AEMC  
24 make a differential Rule.

25 (2) In addition to the requirements of section 95, the  
26 AEMC must give the Minister of this jurisdiction —

27 (a) a copy of the notice published under  
28 section 95(1a)(a); and

29 (b) a draft of the proposed Rule; and

- 1                                   (c) any other document prescribed by the  
2                                   Regulations.  
3

4 **54. Section 99 modified**

- 5       (1) After section 99(1b) insert:  
6

- 7                   (1c) In the case of a proposed Rule that is a differential  
8                   Rule, the AEMC must also, as soon as practicable after  
9                   publishing a notice under subsection (1a)(b) or (1b),  
10                  give the Minister of this jurisdiction the draft Rule  
11                  determination and a copy of the notice.  
12

- 13       (2) After section 99(2)(a)(ii) insert:  
14

- 15                                   (ii) in the case where the proposed Rule is a  
16                                   differential Rule, the reasons of the  
17                                   AEMC as to whether it is satisfied the  
18                                   proposed Rule will, or is likely to, better  
19                                   contribute to the achievement of the  
20                                   national electricity objective than a  
21                                   uniform Rule; and  
22

23 **55. Section 102 modified**

- 24       (1) After section 102(1a) insert:  
25

- 26                   (1b) If the Rule to be made is a differential Rule, the AEMC  
27                   must also, as soon as practicable after publishing a  
28                   notice under subsection (1a)(b), give the Minister of  
29                   this jurisdiction —

- 30                                   (a) the final Rule determination; and  
31                                   (b) a copy of the notice.  
32

- 1 (2) After section 102(2)(a)(ii) insert:  
2
- 3 (ii) in the case where the Rule to be made is  
4 a differential Rule, the reasons of the  
5 AEMC as to whether it is satisfied the  
6 Rule will, or is likely to, better  
7 contribute to the achievement of the  
8 national electricity objective than a  
9 uniform Rule; and  
10
- 11 **56. Section 108B inserted**
- 12 At the beginning of Part 8 insert:  
13
- 14 **108B. Part has no effect**
- 15 This Part does not have effect as a law of this  
16 jurisdiction.  
17
- 18 **57. Section 118B modified**
- 19 After section 118B(2) insert:  
20
- 21 (2a) For the purposes of subsection (2), the Minister must  
22 regard the reference in the national electricity objective  
23 to the national electricity system as a reference to one  
24 or more or all of the local electricity systems,  
25 whichever the Minister considers appropriate in the  
26 circumstances.  
27
- 28 **58. Section 120 modified**
- 29 Delete section 120(2A).

1 **59. Schedule 1 modified**

2 (1) In Schedule 1 item 4 delete “AEMO.” and insert:

3

4 AEMO in the participating jurisdictions (other than the Northern  
5 Territory and this jurisdiction).

6

7 (2) In Schedule 1 item 7 delete “AEMO,” and insert:

8

9 AEMO in the participating jurisdictions (other than the Northern  
10 Territory and this jurisdiction),

11

12 (3) In Schedule 1 item 9 delete “AEMO.” and insert:

13

14 AEMO in the participating jurisdictions (other than the Northern  
15 Territory and this jurisdiction).

16

17 (4) In Schedule 1 item 32 delete “national electricity system,” and  
18 insert:

19

20 national electricity system or a local electricity system,

21

22 (5) In Schedule 1 item 34(a) delete “AEMO;” and insert:

23

24 AEMO in the participating jurisdictions (other than the Northern  
25 Territory and this jurisdiction);

26

1 **60. Schedule 3 Part 1A inserted**

2 At the beginning of Schedule 3 insert:

3 **Part 1A — Parts 2 to 12 have no effect**

4 **1A. Parts 2 to 12 have no effect**

5 Parts 2 to 12 do not have effect as a law of this  
6 jurisdiction.

7

8 **Division 3 — Modifications expiring on 1 July 2018**

9 **61. Part 2 Division 1A inserted**

10 At the beginning of Part 2 insert:

11

12 **Division 1A — Part deferred until 1 July 2018**

13 **10B. Part deferred until 1 July 2018**

14 This Part does not have effect as a law of this  
15 jurisdiction (until 1 July 2018).

16

17 **62. Part 5 Division 1A inserted**

18 At the beginning of Part 5 insert:

19

20 **Division 1A — Part deferred until 1 July 2018**

21 **48A. Part deferred until 1 July 2018**

22 This Part does not have effect as a law of this  
23 jurisdiction (until 1 July 2018).

24

1 **63. Part 8A Division 1A inserted**

2 At the beginning of Part 8A insert:

3

4 **Division 1A — Part deferred until 1 July 2018**

5 **118AA. Part deferred until 1 July 2018**

6 This Part does not have effect as a law of this  
7 jurisdiction (until 1 July 2018).

8

9 **64. Part 10 Division 1A inserted**

10 At the beginning of Part 10 insert:

11

12 **Division 1A — Part deferred until 1 July 2018**

13 **122A. Part deferred until 1 July 2018**

14 This Part does not have effect as a law of this  
15 jurisdiction (until 1 July 2018).

16

17 **65. Section 157 modified**

18 Before section 157(1) insert:

19

20 (1a) This section does not have effect as a law of this  
21 jurisdiction (until 1 July 2018).

22

1 **Division 4 — Modification expiring on day prescribed**

2 **66. Section 49 modified**

3 Before section 49(1) insert:

4

5 (1a) Subsection (1)(f) does not have effect as a law of this  
6 jurisdiction (until the day prescribed for the purposes  
7 of the WA Application Act section 19(3)).

8

9

---

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
deferred provision .....	16(2)
deferred revenue amounts .....	12(4)
Electricity Network Access Code .....	12(4)
Electricity Networks Corporation .....	3(1)
ERA .....	13
Legislature of this jurisdiction .....	8(1)
limited provision .....	16(4)
modification .....	16(1)
modification instrument .....	12(7)
National Electricity (South Australia) Act 1996 .....	3(1)
National Electricity (WA) Law .....	3(1)
National Electricity (WA) Regulations .....	3(1)
National Electricity (WA) Rules .....	3(1)
National Electricity Law .....	8(1)
non-WA NEL provisions .....	14(4)
preparatory step .....	17(1)
provision .....	17(1)
the jurisdiction .....	8(1)
this jurisdiction .....	8(1)
this Law .....	8(1)
transition period .....	13
transitional matters .....	13