
EXPLANATORY MEMORANDUM

ELECTRICITY INDUSTRY AMENDMENT BILL 2007



Office of Energy
Government of **Western Australia**

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The purpose of the Bill is to provide the heads of power for regulations to be made to permanently exempt the Wholesale Electricity Market arrangements in Western Australia from the licensing requirements under Chapter 7 of the *Corporations Act 2001* of the Commonwealth (the "Corporations Act").

Chapter 7 of the Corporations Act includes provisions relating to the licensing of persons that operate financial markets and of persons that operate a financial services business.

If these provisions were to apply to the Wholesale Electricity Market, they would increase the costs associated with trading in the market and would represent a significant barrier for participants seeking to enter the market; with no added benefit to the current protection offered by the Rules governing the operation of the Wholesale Electricity Market.

The design of the Wholesale Electricity Market is unique and was tailored for the South West Interconnected System. It is considered that the Wholesale Electricity Market arrangements do not constitute a financial market for the purpose of Chapter 7 of the Corporations Act, as trades directly relate to the physical supply of electricity and supply of capacity.

The Australian Securities and Investment Commission has granted the Wholesale Electricity Market arrangements with temporary relief from the licensing requirements of Chapter 7 of the Corporations Act. This interim relief will apply until 19 March 2008.

The Bill will provide certainty for market participants regarding the application of Chapter 7 of the Corporations Act to the Wholesale Electricity Market arrangements in Western Australia.

Clause 1 Short title

This clause provides that the Act be cited as the *Electricity Industry Amendment Act 2007*.

Clause 2 Commencement

This clause provides for sections 1 and 2 of the Act to come into operation on the day on which the Act receives Royal assent, with the rest of the Act to come into operation the following day.

Clause 3 The Act amended

This clause provides that the amendment is to the *Electricity Industry Act 2004*.

Clause 4 Section 134 inserted

This clause provides for regulations to be made to declare a “matter” dealt with, provided for, done or occurring under this Act, the regulations, or the Wholesale Electricity Market Rules to be an excluded matter for the purposes of section 5F of the *Corporations Act 2001* of the Commonwealth.

Section 5F of the *Corporations Act 2001* of the Commonwealth provides a mechanism by which the application provisions under the Corporations Act can be made to be an excluded matter by a State or Territory for the whole or part of the Corporations Act. None of the provisions that are declared by a State or Territory as an excluded matter would apply in the State or Territory in relation to that matter.

The regulations, provided for under this clause, may declare a matter to be an excluded matter in relation to one or more parts of the *Corporations Act 2001* of the Commonwealth.

In this clause:

“**market rules**” is given the meaning given to that term in Part 9 of the *Electricity Industry Act 2004*; and

“**matter**” includes act, omission, body, person, or thing.