

# Electricity Industry Amendment Bill 2019

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Western Australia

LEGISLATIVE ASSEMBLY

## **Electricity Industry Amendment Bill 2019**

**A Bill for**

**An Act to amend the *Electricity Industry Act 2004*, and to amend the *Electricity Corporations Act 2005* and the *Energy Operators (Powers) Act 1979* consequentially.**

The Parliament of Western Australia enacts as follows:

1  
2  
3  
4  
5  
6  
7  
8  
9

**Part 1 — Preliminary**

**1. Short title**

This is the *Electricity Industry Amendment Act 2019*.

**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 the day after the day on which this Act receives the Royal Assent.

1           **Part 2 — *Electricity Industry Act 2004* amended**

2   **3.       Act amended**

3           This Part amends the *Electricity Industry Act 2004*.

4   **4.       Section 3 amended**

5       (1) In section 3 delete “In this Act,” and insert:

6  
7           (1) In this Act,

8  
9       (2) In section 3 delete the definitions of:

10           *distribution system*

11           *generating works*

12           *transmission system*

13       (3) In section 3 insert in alphabetical order:

14  
15           *access*, in relation to services, has the same meaning  
16           that it has when used in that context in the *Competition*  
17           *and Consumer Act 2010* (Commonwealth);

18           *Code* means the Code for the time being in force under  
19           section 104;

20           *Competition Principles Agreement* means the  
21           Competition Principles Agreement made on  
22           11 April 1995 by the Commonwealth, the States and  
23           the Territories, as in force for the time being;

24           *covered network* means network infrastructure  
25           facilities that —

26           (a) were covered by the Code immediately before  
27           the day on which the *Electricity Industry*  
28           *Amendment Act 2019* section 4(3) comes into  
29           operation and that have not ceased to be a  
30           covered network; or

**s. 4**

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- 1 (b) the Minister has decided under the Code are to  
2 be a covered network and that have not ceased  
3 to be a covered network; or
- 4 (c) are prescribed in the Pilbara Networks Access  
5 Code under section 120B(a) to be a covered  
6 Pilbara network and that have not ceased to be  
7 so prescribed; or
- 8 (d) a network service provider has opted, under the  
9 Pilbara Networks Access Code, to be regulated  
10 under Part 8A and that —
- 11 (i) have not ceased to be so regulated under  
12 that code as a consequence of an option  
13 by the network service provider for the  
14 facilities to cease to be so regulated; or
- 15 (ii) have not otherwise ceased to be a  
16 covered network;

17 ***covered Pilbara network*** means a covered network that  
18 is located wholly or partly in the Pilbara region;

19 ***distribution system*** means electricity infrastructure  
20 used, or to be used, for, or in connection with, or to  
21 control, the transportation of electricity at nominal  
22 voltages of less than 66 kV;

23 ***electricity infrastructure*** —

- 24 (a) means wires, apparatus, equipment, plant or  
25 buildings used, or to be used, for, or in  
26 connection with, or to control, the  
27 transportation of electricity; and
- 28 (b) includes electrical equipment used, or to be  
29 used, to transfer electricity to or from an  
30 electricity network at the relevant point of  
31 connection including any transformers or  
32 switchgear at the relevant point or that is  
33 installed to support, or to provide backup to,



1                                   that electrical equipment as is necessary for that  
2                                   transfer;

3                   **electricity network** means a distribution system or a  
4                   transmission system;

5                   **generating works** means any wires, apparatus,  
6                   equipment, plant or buildings used, or to be used, for,  
7                   or in connection with, or to control, the generation of  
8                   electricity;

9                   **network infrastructure facilities** —

- 10                   (a) means electricity infrastructure used, or to be  
11                   used, for the purpose of transporting electricity  
12                   from generators of electricity to other  
13                   electricity infrastructure or to end users of  
14                   electricity; and
- 15                   (b) includes stand-alone power systems, or storage  
16                   works, used, or to be used, as an adjunct to  
17                   electricity infrastructure;

18                   **Pilbara network** means network infrastructure facilities  
19                   that are located wholly or partly in the Pilbara region;

20                   **Pilbara Networks Access Code** means the Pilbara  
21                   Networks Access Code for the time being in force  
22                   under Part 8A Division 2;

23                   **Pilbara networks rules** means the Pilbara networks  
24                   rules for the time being in force under Part 8A  
25                   Division 3;

26                   **Pilbara region** means the Pilbara region defined in the  
27                   *Regional Development Commissions Act 1993*  
28                   Schedule 1;

29                   **services** means —

- 30                   (a) the transport of electricity, and other services,  
31                   provided by means of network infrastructure  
32                   facilities; and
- 33                   (b) services ancillary to those services;

**s. 4**

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- 1                    **stand-alone power system** means wires, apparatus,  
2                    equipment, plant or buildings (including generating  
3                    works, a distribution system and any storage works) —
- 4                    (a)    which together are used, or to be used, for, or in  
5                    connection with, or to control, the supply of  
6                    electricity to a single customer or not more than  
7                    a prescribed number of customers; and
- 8                    (b)    which are not connected to another electricity  
9                    network (other than that of the customer or  
10                   customers);
- 11                   **storage activity** means an activity comprising all of the  
12                   following —
- 13                   (a)    receiving energy in the form of electricity;
- 14                   (b)    storing the received energy in any form;
- 15                   (c)    discharging the stored energy in the form of  
16                   electricity;
- 17                   **storage works** means any wires, apparatus, equipment,  
18                   plant or buildings used, or to be used, for, or in  
19                   connection with, or to control, a storage activity;
- 20                   **transmission system** means electricity infrastructure  
21                   used, or to be used, for, or in connection with, or to  
22                   control, the transportation of electricity at nominal  
23                   voltages of 66 kV or higher.
- 24
- 25                   (4)    At the end of section 3 insert:
- 26
- 27                   (2)    In this Act, a reference to the regulation of a covered  
28                   network under Part 8 or 8A, or of a covered Pilbara  
29                   network under Part 8A, is a reference to access to the  
30                   services of that network being regulated under that  
31                   Part.
- 32

- 1   **5.     Section 11 amended**
- 2           Delete section 11(4)(b) and insert:
- 3
- 4                   (b)   the Code; or
- 5           (ba)   in the case of a licence that relates to a Pilbara
- 6                   network —
- 7                           (i)   the Pilbara Networks Access Code, if
- 8                                   the network is regulated under Part 8A;
- 9                                   and
- 10                           (ii)   the Pilbara networks rules, if they apply
- 11                                   to the network;
- 12                                   or
- 13
- 14   **6.     Sections 23 and 24 amended**
- 15           In sections 23(2)(g) and 24 delete “internet”.
- 16   **7.     Section 30 amended**
- 17           In section 30 delete “*Trade Practices Act 1974* of the
- 18           Commonwealth” and insert:
- 19
- 20                   *Competition and Consumer Act 2010* (Commonwealth)
- 21
- 22   **8.     Section 39A amended**
- 23           In section 39A(10)(b)(ii) delete “internet”.
- 24   **9.     Section 102 amended**
- 25           In section 102(a) after “provide” insert:
- 26
- 27                   for full regulation of
- 28

**s. 10**

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1 **10. Section 103 amended**

2 (1) In section 103 delete the definitions of:

3 *access*

4 *Code*

5 *Competition Principles Agreement*

6 *network infrastructure facilities*

7 *services*

8 (2) In section 103 insert in alphabetical order:

9

10 *network service provider* means a person who operates  
11 network infrastructure facilities;

12 *network user* means a person provided or to be  
13 provided with access to services under an access  
14 agreement.  
15

16 (3) In section 103 in the definition of *access agreement* delete “(a  
17 *network user*)”.

18 (4) In section 103 in the definition of *access arrangement* delete  
19 “section 104(2)(c)” and insert:

20

21 section 104B(a)  
22

23 **11. Section 104 replaced**

24 Delete section 104 and insert:

25

26 **104. Minister to establish Code**

27 The Minister is to establish a Code for the purposes of,  
28 and in accordance with, this Part.

- 1           **104A. Code to provide for coverage of networks**
- 2           (1) Provision is to be made in the Code —
- 3               (a) prescribing the processes (including the matters
- 4                 to be considered and the criteria to apply) by
- 5                 which the Minister is to decide whether
- 6                 network infrastructure facilities are to be a
- 7                 covered network; and
- 8               (b) prescribing the processes (including the matters
- 9                 to be considered and the criteria to apply) by
- 10                which the Minister is to decide whether a
- 11                covered network is to cease to be a covered
- 12                network; and
- 13               (c) for the manner in which a decision referred to
- 14                in paragraph (a) or (b) is to be published and
- 15                come into effect.
- 16           (2) A covered network is regulated under this Part (that is,
- 17               access to services of the network is subject to full
- 18               regulation) unless, in the case of a covered Pilbara
- 19               network, the network is regulated under Part 8A (that
- 20               is, access to services of the network is subject to light
- 21               regulation).
- 22           (3) A decision under the Code as to whether network
- 23               infrastructure facilities are to be a covered network or
- 24               are to cease to be a covered network is not liable to be
- 25               challenged in, or reviewed or called in question by, a
- 26               court or tribunal otherwise than under section 130.
- 27           (4) A stand-alone power system cannot be a covered
- 28               network on its own but it may, in accordance with the
- 29               Code, be treated as part of the covered network to
- 30               which it is an adjunct.

**s. 11**

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- 1           **104B. Code to provide for full regulation of access to**  
2           **services of covered networks**
- 3           Provision is to be made in the Code for or in relation to  
4           the following in relation to covered networks that are  
5           regulated under this Part —
- 6           (a) the lodgment by a network service provider of  
7           an arrangement for its covered networks setting  
8           out —
- 9               (i) the policies applying to access to  
10              services; and
- 11              (ii) the basic terms and conditions that will  
12              apply to access to services unless an  
13              access agreement contains different  
14              terms and conditions; and
- 15              (iii) any other matters prescribed by the  
16              Code;
- 17           (b) the production by a network service provider of  
18           information to enable persons to understand the  
19           derivation of the elements of an arrangement  
20           for its covered networks lodged under  
21           paragraph (a), whether or not that arrangement  
22           has become an access arrangement;
- 23           (c) the approval by the Authority of arrangements  
24           lodged under paragraph (a) and the matters to  
25           which the Authority is to have regard in  
26           deciding whether to give its approval;
- 27           (d) the registration of access arrangements;
- 28           (e) access by persons to services of a covered  
29           network as provided for in the access  
30           arrangement for the covered network and in  
31           accordance with —
- 32               (i) access agreements; or
- 33               (ii) determinations made by way of  
34              arbitration;

- 1                   (f) network access pricing regulation principles;
- 2                   (g) the rights, powers and duties that are to apply to
- 3                   and in relation to the negotiation, making, and
- 4                   implementation of access agreements;
- 5                   (h) the duties and requirements in relation to the
- 6                   provision of access to services that are to be
- 7                   complied with by a network service provider;
- 8                   (i) access arrangements to provide for any matter
- 9                   referred to in paragraphs (f), (g) and (h);
- 10                  (j) the obligations of a network service provider in
- 11                  respect of the segregation of the functions and
- 12                  business of providing services from the
- 13                  network service provider's other functions and
- 14                  business and enabling the Authority to add to
- 15                  those obligations or waive any of them;
- 16                  (k) services between related bodies corporate (as
- 17                  defined in the *Corporations Act 2001*
- 18                  (Commonwealth) section 9);
- 19                  (l) the rights and obligations of network users;
- 20                  (m) the formulation by a network service provider,
- 21                  and approval by the Authority, of technical
- 22                  codes for the purposes of access to services that
- 23                  are to be complied with by network users and
- 24                  other persons specified in the Code;
- 25                  (n) the disclosure and use of confidential
- 26                  information;

**s. 12**

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- 1 (o) the supervisory or other functions of the  
2 Authority for the purposes of the Code,  
3 including a function of determining certain  
4 requirements in relation to access to the  
5 services of covered networks that are to be  
6 complied with by a network service provider or  
7 a person making a proposal for access to  
8 services and applied by the arbitrator.  
9

10 **12. Section 105 amended**

11 In section 105(1):

12 (a) after paragraph (c) insert:

13  
14 (ca) access to the services of stand-alone power  
15 systems; and

16 (cb) the regulation of the powers of the Electricity  
17 Networks Corporation and Regional Power  
18 Corporation to provide stand-alone power  
19 systems or storage works; and  
20

21 (b) after each of paragraphs (a) to (c) insert:

22

23 and  
24

25 **13. Section 107 amended**

26 In section 107(6) delete “under subsection (5), the Code” and  
27 insert:

28

29 in whole or in part under subsection (5), the Code, or the  
30 disallowed part of the Code (as applicable)  
31



1     **14.     Section 108 amended**

2             In section 108(2):

- 3                 (a)   in paragraph (a) delete “internet”;
- 4                 (b)   in paragraph (b)(i) delete “places” and insert:
- 5
- 6                         website
- 7
- 8                 (c)   delete paragraph (b)(iii) and insert:
- 9
- 10                                 (iii)   the address (including an email address)
- 11   to which the submissions may be
- 12   delivered or sent.
- 13

14     **15.     Section 111 amended**

15             In section 111(4):

- 16                 (a)   in paragraph (a) delete “internet”;
- 17                 (b)   delete paragraph (b)(ii) and insert:
- 18
- 19                                 (ii)   the address (including an email address)
- 20   to which the submissions may be
- 21   delivered or sent.
- 22

23     **16.     Section 115 amended**

24             (1) In section 115(1):

- 25                 (a)   delete “network infrastructure facilities covered by the
- 26                         Code,” and insert:
- 27

28                                 a covered network that is regulated under this Part,

29

**s. 17**

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1 (b) in paragraph (b) delete “those facilities; or” and insert:  
2  
3 that network; or  
4

5 (2) In section 115(2) delete “network infrastructure facilities  
6 covered by the Code.” and insert:  
7

8 a covered network that is regulated under this Part.  
9

10 (3) In section 115(6) in the definition of “*associate*” delete “Part 1.2  
11 Division 2 of the *Corporations Act 2001* of the Commonwealth  
12 if sections 13, 14,” and insert:  
13

14 the *Corporations Act 2001* (Commonwealth) Part 1.2 Division 2  
15 if sections 13,  
16

17 **17. Section 116 amended**

18 In section 116(2)(b) delete “under this Act or the Code of the  
19 Minister, the arbitrator or the Board.” and insert:  
20

21 made under this Act or the Code.  
22

23 **18. Part 8 Division 4 deleted**

24 Delete Part 8 Division 4.

1 **19. Part 8A inserted**

2 After Part 8 insert:

3

4 **Part 8A — Pilbara networks**

5 **Division 1 — Preliminary**

6 **119. Purposes and objective of this Part**

7 (1) The purposes of this Part are —

- 8 (a) to provide for light regulation of access to  
9 services of covered Pilbara networks; and  
10 (b) to give effect to the relevant principles of the  
11 Competition Principles Agreement in respect of  
12 the provision of access to services of certain  
13 covered Pilbara networks; and  
14 (c) to provide for the operation, management,  
15 security and reliability of the interconnected  
16 Pilbara system and other Pilbara networks.

17 (2) The objective of this Part (the *Pilbara electricity*  
18 *objective*) is to promote efficient investment in, and  
19 efficient operation and use of, services of Pilbara  
20 networks for the long-term interests of consumers of  
21 electricity in the Pilbara region in relation to —

- 22 (a) price, quality, safety, reliability and security of  
23 supply of electricity; and  
24 (b) the reliability, safety and security of any  
25 interconnected Pilbara system.

26 (3) The regulations, the Pilbara Networks Access Code  
27 and the Pilbara networks rules may provide for the  
28 matters a person or body who performs a function  
29 under this Part is to have regard to in determining

**s. 19**

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- 1 whether the performance of the function meets the  
2 Pilbara electricity objective.
- 3 (4) Without limiting subsection (3), the matters referred to  
4 in that subsection may include the following —
- 5 (a) the contribution of the Pilbara resources  
6 industry to the State’s economy;
- 7 (b) the nature and scale of investment in the Pilbara  
8 resources industry;
- 9 (c) the importance to the Pilbara resources industry  
10 of a secure and reliable electricity supply.

11 **120. Terms used**

12 In this Part, unless the contrary intention appears —

13 ***interconnected Pilbara network*** means a Pilbara  
14 network that is interconnected with another Pilbara  
15 network;

16 ***interconnected Pilbara system*** means a system of  
17 interconnected Pilbara networks, including the  
18 following when connected to an interconnected Pilbara  
19 network —

- 20 (a) generating works and associated works;
- 21 (b) loads;
- 22 (c) facilities, including electricity storage facilities;

23 ***Pilbara access agreement*** means an agreement under  
24 the Pilbara Networks Access Code between a network  
25 service provider and another person for that person to  
26 have access to services of a covered Pilbara network;

27 ***Pilbara electricity objective***, see section 119(2);

28 ***Pilbara ISO***, see section 120W;

- 1                    ***Pilbara network service provider*** means a person  
2                    who —
- 3                    (a)    owns, controls or operates a Pilbara network or  
4                    any part of a Pilbara network; or
- 5                    (b)    proposes to own, control or operate a Pilbara  
6                    network or any part of a Pilbara network;
- 7                    ***Pilbara network user*** means a person provided or to be  
8                    provided with access to services under a Pilbara access  
9                    agreement but does not include the Pilbara ISO;
- 10                  ***Pilbara networks participant*** means —
- 11                  (a)    the Pilbara ISO; or
- 12                  (b)    a Pilbara network service provider; or
- 13                  (c)    a licensee of a generation licence if the  
14                  generating works to which the licence applies  
15                  are connected to a Pilbara network; or
- 16                  (d)    a licensee of a transmission licence if the  
17                  transmission system is, or is part of, a Pilbara  
18                  network; or
- 19                  (e)    a licensee of a distribution licence if the  
20                  distribution system is, or is part of, a Pilbara  
21                  network; or
- 22                  (f)    a licensee of a retail licence who sells  
23                  electricity transported through a Pilbara  
24                  network; or
- 25                  (g)    a licensee of an integrated regional licence if at  
26                  least one of the activities under the licence is an  
27                  activity of a kind that could be covered by a  
28                  licence referred to in paragraphs (c) to (f); or
- 29                  (h)    a Pilbara network user; or
- 30                  (i)    a person on whom functions are conferred  
31                  under this Part; or
- 32                  (j)    a person on whom functions relating to this Part  
33                  are conferred by another written law; or

**s. 19**

---

- 1 (k) a person who is registered under the Pilbara  
2 networks rules as required by the regulations;  
3 or  
4 (l) a person whose conduct is regulated, or on  
5 whom obligations are imposed, by regulations  
6 made under section 120N(2)(a).

7 **Division 2 — Pilbara Networks Access Code**

8 **120A. Minister to establish Pilbara Networks Access Code**

- 9 (1) The Minister is to establish, in accordance with this  
10 Part, a code to be called the Pilbara Networks Access  
11 Code —  
12 (a) to give effect to the purposes set out in  
13 section 119(1)(a) and (b); and  
14 (b) to meet the Pilbara electricity objective.  
15 (2) The Pilbara Networks Access Code may be established  
16 by amendment to the Code or by a separate instrument.

17 **120B. Pilbara Networks Access Code — covered Pilbara**  
18 **networks**

- 19 Provision is to be made in the Pilbara Networks Access  
20 Code for or in relation to the following —  
21 (a) prescribing Pilbara networks that are to be  
22 covered Pilbara networks regulated under this  
23 Part with effect from the coming into operation  
24 of the Pilbara Networks Access Code;  
25 (b) prescribing the processes (including the matters  
26 to be considered and the criteria to apply) by  
27 which the Minister is to decide the following —  
28 (i) whether a covered Pilbara network is to  
29 be regulated under this Part;

- 1                                   (ii) whether a covered Pilbara network that  
2                                   is regulated under this Part is to cease to  
3                                   be regulated under this Part;
- 4                                   (c) the manner in which a decision referred to in  
5                                   paragraph (b) is to be published and come into  
6                                   effect;
- 7                                   (d) prescribing the circumstances in which a  
8                                   Pilbara network service provider may opt for a  
9                                   Pilbara network to be regulated under this Part  
10                                  and the processes for making, and determining  
11                                  the outcome of, that option;
- 12                                  (e) prescribing the circumstances in which a  
13                                  Pilbara network service provider that opted for  
14                                  a Pilbara network to be regulated under this  
15                                  Part may opt for the network to cease to be  
16                                  regulated under this Part and the processes for  
17                                  making, and determining the outcome of, that  
18                                  option;
- 19                                  (f) the effect on any processes, requirements,  
20                                  access arrangements or access agreements or  
21                                  other matter or thing under the Code or the  
22                                  Pilbara Networks Access Code or any contract  
23                                  of —
- 24                                   (i) a decision referred to in paragraph (b)  
25                                   that a covered Pilbara network is to be  
26                                   regulated under this Part; or
- 27                                   (ii) a decision referred to in paragraph (b)  
28                                   that a covered Pilbara network is to  
29                                   cease to be regulated under this Part; or
- 30                                   (iii) a Pilbara network service provider  
31                                   opting for a Pilbara network to be  
32                                   regulated under this Part; or
- 33                                   (iv) a Pilbara network service provider  
34                                   opting for a covered Pilbara network to  
35                                   cease to be regulated under this Part;

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- 1 (g) any transitional matters for the purposes of  
2 paragraphs (a) to (f);
- 3 (h) generally, the relationship between the Code  
4 and the Pilbara Networks Access Code,  
5 including things done under, or governed by,  
6 the Code or the Pilbara Networks Access Code.
- 7 **120C. Pilbara Networks Access Code — light regulation**
- 8 Provision is to be made in the Pilbara Networks Access  
9 Code for or in relation to the following matters in  
10 relation to covered Pilbara networks —
- 11 (a) access by persons to services of covered Pilbara  
12 networks in accordance with —
- 13 (i) Pilbara access agreements; or  
14 (ii) determinations made by way of  
15 arbitration;
- 16 (b) Pilbara access agreements and contracts to be  
17 subject to determinations or requirements of the  
18 Pilbara ISO;
- 19 (c) network access pricing regulation principles;
- 20 (d) the procedures, requirements, methodologies,  
21 guidelines, parameters, values and processes to  
22 be followed or used by a Pilbara network  
23 service provider in connection with prices,  
24 tariffs, revenue and costs;
- 25 (e) the rights, powers and duties that are to apply to  
26 and in relation to the negotiation, making, and  
27 implementation of Pilbara access agreements;
- 28 (f) the duties and requirements in relation to the  
29 provision of access to services that are to be  
30 complied with by a Pilbara network service  
31 provider;



- 1 (g) requiring a Pilbara network service provider to  
2 develop and publish the following in relation to  
3 its services —
- 4 (i) standing prices for connection and  
5 access to its services, including  
6 reasonable details of the methodologies  
7 and assumptions used in determining  
8 standing prices; and
- 9 (ii) standing terms for connection and  
10 access to its services; and
- 11 (iii) information to assist persons seeking  
12 connection and access to its services;
- 13 (h) the circumstances in which a Pilbara network  
14 service provider may or may not offer or agree  
15 to different prices and terms for different  
16 Pilbara network users (including prices and  
17 terms determined in accordance with provisions  
18 made under paragraphs (c) to (g));
- 19 (i) access to the services of stand-alone power  
20 systems;
- 21 (j) providing for the resolution of disputes in  
22 relation to connection and access to services or  
23 in relation to things done or omitted to be done  
24 by a Pilbara network service provider under the  
25 Pilbara Networks Access Code including —
- 26 (i) arbitration of disputes by a person or  
27 body that is determined or appointed in  
28 accordance with the Pilbara Networks  
29 Access Code; and
- 30 (ii) the conferral of functions on a person or  
31 body arbitrating disputes;

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- 1 (k) conferring functions on the Authority,  
2 including —
- 3 (i) supervisory and other functions for the  
4 purposes of the Pilbara Networks  
5 Access Code, including dispute  
6 resolution functions; and
- 7 (ii) the function of determining  
8 requirements (including prices and  
9 terms) in relation to access to services  
10 that are to be complied with by a Pilbara  
11 network service provider or a person  
12 seeking access to services and applied  
13 by a person or body arbitrating disputes;  
14 and
- 15 (iii) the issuing of guidelines for the  
16 purposes of this Division;
- 17 (l) the obligations of Pilbara networks participants  
18 to comply with guidelines issued by the  
19 Authority;
- 20 (m) the obligations of a Pilbara network service  
21 provider in respect of the segregation of the  
22 functions and business of providing services  
23 from the Pilbara network service provider's  
24 other functions and business;
- 25 (n) requiring the approval by the Authority of a  
26 proposed segregation referred to in  
27 paragraph (m) and enabling the Authority to  
28 amend the proposal or add to or waive any of  
29 the obligations;
- 30 (o) services between related bodies corporate (as  
31 defined in the *Corporations Act 2001*  
32 (Commonwealth) section 9);
- 33 (p) conferring rights and imposing obligations on  
34 Pilbara networks participants;

- 1 (q) regulating the disclosure and use of confidential  
2 or commercially sensitive information;
- 3 (r) conferring functions on —
- 4 (i) the Minister; or
- 5 (ii) the Pilbara ISO;
- 6 (s) in respect of costs incurred in the performance  
7 of functions conferred on the Authority or the  
8 Pilbara ISO, provide for —
- 9 (i) the implementation of accounting  
10 arrangements to enable those costs to be  
11 identified; and
- 12 (ii) the allocation of those costs between  
13 Pilbara networks participants; and
- 14 (iii) in the case of the Pilbara ISO, any costs  
15 incurred in anticipation of, or  
16 preparation for, the performance of the  
17 functions of the Pilbara ISO; and
- 18 (iv) the recovery of those costs;
- 19 (t) providing for the relationship between the  
20 Minister, or another Minister, and a participant  
21 referred to in section 120ZA in respect of the  
22 performance of the functions of the participant;
- 23 (u) providing for the regulation of matters —
- 24 (i) of a savings, transitional or  
25 supplementary nature; or
- 26 (ii) that are otherwise necessary or  
27 convenient for the purposes of this  
28 Division.

29 **120D. Additional matters for Pilbara Networks Access**  
30 **Code and other instruments**

- 31 (1) The regulations or the Pilbara Networks Access Code  
32 may provide that if the disclosure or use of confidential

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- 1 or commercially sensitive information is authorised by  
2 the regulations or the Pilbara Networks Access  
3 Code —
- 4 (a) no civil or criminal liability is incurred in  
5 respect of the use or disclosure; and
- 6 (b) the use or disclosure is not to be regarded as —
- 7 (i) a breach of any duty of confidentiality  
8 or secrecy imposed by law or contract;  
9 or
- 10 (ii) a breach of professional ethics or  
11 standards or any principles of conduct  
12 applicable to a person’s employment; or
- 13 (iii) unprofessional conduct.
- 14 (2) The regulations, the Pilbara Networks Access Code, an  
15 instrument made under the Pilbara Networks Access  
16 Code or an instrument amending any of them, may  
17 apply, adopt or incorporate, with or without  
18 modification, material contained in any other document  
19 or writing as in effect or existing —
- 20 (a) when the regulations, Pilbara Networks Access  
21 Code, instrument or amending instrument  
22 comes into operation; or
- 23 (b) at a specified prior time.
- 24 (3) Without limiting section 120C(s), if it is inappropriate  
25 to prescribe a set fee or charge in connection with the  
26 performance of a particular function, the regulations or  
27 the Pilbara Networks Access Code may provide for the  
28 method of calculating the fee or charge, including  
29 calculation according to the cost of performing that  
30 function.

- 1           (4) The following decisions are not liable to be challenged  
2           in, or reviewed or called in question by, a court or  
3           tribunal otherwise than under section 130 —
- 4               (a) a decision under the Pilbara Networks Access  
5               Code as to whether a covered Pilbara network  
6               is to be regulated under this Part or is to cease  
7               to be regulated under this Part;
- 8               (b) a decision under the Pilbara Networks Access  
9               Code as to whether a Pilbara network service  
10              provider does or does not satisfy the  
11              requirements to —
- 12                      (i) opt for the Pilbara network to be  
13                      regulated under this Part; or
- 14                      (ii) opt for the covered Pilbara network to  
15                      cease to be regulated under this Part.
- 16           (5) The regulations or the transitional provisions referred  
17           to in section 120C(u)(i) may authorise the Minister to  
18           determine by order published in the *Gazette* how any  
19           matter or thing in progress immediately before the  
20           commencement of the Pilbara Networks Access Code  
21           is to be treated, after that commencement, for the  
22           purposes of the provisions of the Pilbara Networks  
23           Access Code.

24           **120E. Additional matters for Pilbara Networks Access**  
25           **Code: more than one provider for network**

26           The Pilbara Networks Access Code may provide for  
27           the following —

- 28               (a) that if there is more than one Pilbara network  
29               service provider for a Pilbara network and a  
30               thing is required or permitted under the Pilbara  
31               Networks Access Code to be done by the  
32               Pilbara network service providers, one of the  
33               Pilbara network service providers may, with the  
34               consent of one or more of the other providers,

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- 1 do that thing on behalf of those consenting  
2 providers;
- 3 (b) that a thing done or omitted to be done by a  
4 Pilbara network service provider on behalf of  
5 another Pilbara network service provider for a  
6 Pilbara network as referred to in paragraph (a)  
7 is taken to have been done or omitted to be  
8 done by that other Pilbara network service  
9 provider;
- 10 (c) that if there is more than one Pilbara network  
11 service provider that is a party to an access  
12 arrangement for a Pilbara network and that  
13 arrangement allocates things required or  
14 permitted under the Pilbara Networks Access  
15 Code to be done between those Pilbara network  
16 service providers, the provider to whom the  
17 thing is allocated under that arrangement is  
18 required or permitted to do that thing.

19 **120F. Consequential amendments to the Code**

- 20 (1) The Minister may amend the Code to give effect to,  
21 and make any consequential amendments relating to,  
22 the Pilbara Networks Access Code.
- 23 (2) Sections 108 and 109 do not apply to the making of  
24 amendments to the Code mentioned in subsection (1)  
25 in connection with the establishment of the initial  
26 Pilbara Networks Access Code.

27 **120G. Pilbara Networks Access Code is subsidiary**  
28 **legislation**

- 29 (1) In this section —  
30 *Pilbara Networks Access Code* includes —  
31 (a) an amendment of the Pilbara Networks Access  
32 Code; or

- 1                   (b) a code repealing and replacing the Pilbara  
2                   Networks Access Code.
- 3           (2) This section applies if the Pilbara Networks Access  
4           Code is established by a separate instrument under  
5           section 120A(2).
- 6           (3) The Pilbara Networks Access Code is subsidiary  
7           legislation for the purposes of the *Interpretation*  
8           *Act 1984*.
- 9           (4) The Pilbara Networks Access Code is to be laid before  
10           each House of Parliament within 6 sitting days of that  
11           House after the day on which the code is published in  
12           the *Gazette*.
- 13           (5) Notice of motion to disallow the Pilbara Networks  
14           Access Code or any part of the code may be given in  
15           either House of Parliament within 10 sitting days of  
16           that House after the day on which the code is laid  
17           before it under subsection (4).
- 18           (6) Within 10 sitting days of a House of Parliament after  
19           notice of motion has been given in that House under  
20           subsection (5), that House may pass a resolution  
21           disallowing the Pilbara Networks Access Code or any  
22           part of the code.
- 23           (7) If the Pilbara Networks Access Code is not laid before  
24           both Houses of Parliament under subsection (4), or is  
25           disallowed by either House in whole or in part under  
26           subsection (6), the code, or the disallowed part of the  
27           code (as applicable) ceases to have effect, but without  
28           affecting the validity or curing the invalidity of  
29           anything done or the omission of anything in the  
30           meantime.
- 31           (8) If a resolution has been passed under subsection (6),  
32           notice to that effect is to be published in the *Gazette*  
33           within 21 days.

- 1           **120H. Public comment on amendment or replacement of**  
2           **Pilbara Networks Access Code**
- 3           (1) This section applies if the Pilbara Networks Access  
4           Code is established by a separate instrument under  
5           section 120A(2) and the Minister intends to exercise  
6           the power —
- 7                 (a) to amend the Pilbara Networks Access Code; or  
8                 (b) to repeal and replace it.
- 9           (2) Before exercising the power, the Minister must make  
10           the proposed amendment or replacement available for  
11           public comment in accordance with subsection (3).
- 12           (3) The Minister must —
- 13                 (a) cause a notice giving a general description of  
14                 the proposal to be published —
- 15                         (i) in an issue of a daily newspaper  
16                         circulating throughout the  
17                         Commonwealth; and
- 18                         (ii) in an issue of a daily newspaper  
19                         circulating throughout the State; and
- 20                         (iii) on an appropriate website;
- 21                 and
- 22                 (b) include in the notice the following  
23                 information —
- 24                         (i) the website at which a copy of the  
25                         proposal may be obtained; and
- 26                         (ii) a statement that written submissions on  
27                         the proposal may be made to the  
28                         Minister by any person within a  
29                         specified period; and
- 30                         (iii) how the submissions may be made.



- 1           (4) The period specified under subsection (3)(b)(ii) is not  
2           to be less than 30 days after both of the notices under  
3           subsection (3)(a)(i) and (ii) have been published.
- 4           (5) The Minister must have regard to any submission made  
5           in accordance with the notice.

6           **120I. Exception to section 120H**

- 7           (1) Section 120H(2) does not apply if the Minister is  
8           satisfied that a proposed amendment to the Pilbara  
9           Networks Access Code is —
- 10           (a) of a minor nature; or  
11           (b) required to be made urgently.
- 12           (2) If in reliance on subsection (1)(b) the Minister amends  
13           the Pilbara Networks Access Code without complying  
14           with section 120H(2) —
- 15           (a) the Minister must call for public comment on  
16           the amendment as soon as is practicable; and  
17           (b) section 120H(3) and (4) apply with all  
18           necessary modifications.
- 19           (3) Having regard to any submissions made on the  
20           amendment, the Minister must consider whether the  
21           Pilbara Networks Access Code should be amended —
- 22           (a) to reverse the effect of the amendment; or  
23           (b) in some other manner.

24           **120J. Consultation with network service providers on  
25           amendment or replacement of Pilbara Networks  
26           Access Code**

- 27           (1) Without limiting section 120H, if the Minister  
28           considers that a proposed amendment or replacement  
29           of the Pilbara Networks Access Code that is  
30           established by a separate instrument under

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- 1 section 120A(2) may materially affect a network  
2 service provider, the Minister must —
- 3 (a) consult with the network service provider; and  
4 (b) have regard to any submissions that the  
5 network service provider makes in relation to  
6 the proposal.
- 7 (2) If a network service provider considers that the Pilbara  
8 Networks Access Code, or a provision of it, has, as a  
9 result of altered circumstances, become unreasonable  
10 or inappropriate in its application to the network  
11 service provider, the network service provider may  
12 make a submission to the Minister requesting that the  
13 Pilbara Networks Access Code be amended or be  
14 repealed and replaced.
- 15 (3) The Minister must consider a submission made under  
16 subsection (2) and, if requested by the network service  
17 provider, consult with the network service provider in  
18 relation to it.

19 **Division 3 — Pilbara networks rules**

20 **120K. Regulations to provide for Pilbara networks rules**

- 21 (1) The regulations are to provide for rules (*Pilbara*  
22 *networks rules*) for the operation, management,  
23 security and reliability of any interconnected Pilbara  
24 system.
- 25 (2) The regulations may provide for the Pilbara networks  
26 rules to provide for, and in relation to, the operation,  
27 management, security and reliability of covered Pilbara  
28 networks that are not part of an interconnected Pilbara  
29 system.
- 30 (3) The regulations may also provide for the Pilbara  
31 networks rules to provide for, and in relation to, the  
32 following matters in relation to Pilbara networks that

- 1                   are not covered Pilbara networks or part of an  
2                   interconnected Pilbara system —
- 3                   (a)   the functions of the Pilbara ISO under  
4                   section 120W(4)(d);
- 5                   (b)   the obligations of Pilbara network service  
6                   providers to provide information to, and assist,  
7                   the Pilbara ISO in the performance of the  
8                   functions referred to in paragraph (a).
- 9                   (4)   The rules are to set out or deal with the matters  
10                  prescribed by the regulations.

11                  **120L.   Pilbara networks rules not subsidiary legislation**

- 12                  (1)   The Pilbara networks rules are not subsidiary  
13                  legislation for the purposes of the *Interpretation*  
14                  *Act 1984* and section 42 of that Act does not apply to  
15                  them or to rules amending them or repealing and  
16                  replacing them.
- 17                  (2)   The *Interpretation Act 1984* sections 43 (other than  
18                  subsection (6)), 44, 48, 48A, 50(1), 53, 55, 56, 58, 59,  
19                  75 and 76 and Part VIII apply to the Pilbara networks  
20                  rules as if they were subsidiary legislation.

21                  **120M.   Establishment and amendment of Pilbara networks**  
22                  **rules**

- 23                  The regulations may provide for —
- 24                  (a)   the establishment of the initial Pilbara networks  
25                  rules; and
- 26                  (b)   the amendment, or repeal and replacement, of  
27                  the Pilbara networks rules by rules made in  
28                  accordance with the regulations and the Pilbara  
29                  networks rules; and
- 30                  (c)   the publication, commencement, and laying  
31                  before each House of Parliament, of the initial  
32                  Pilbara networks rules and rules amending, or



- 1 (d) authorise the Pilbara networks rules to confer  
2 rights and impose obligations on Pilbara  
3 networks participants;
- 4 (e) provide, or authorise the Pilbara networks rules  
5 to provide, for the resolution of disputes  
6 between Pilbara networks participants;
- 7 (f) authorise the Pilbara networks rules to —
- 8 (i) authorise the Pilbara ISO to make  
9 instruments establishing protocols and  
10 procedures and any other instruments  
11 related to the performance of its  
12 functions; and
- 13 (ii) provide for the effect of those  
14 instruments;
- 15 (g) provide for the process of making, amending,  
16 repealing or replacing an instrument made by  
17 the Pilbara ISO under a power conferred under  
18 paragraph (f);
- 19 (h) provide, or authorise the Pilbara networks rules  
20 to provide, for metering of electricity in  
21 covered Pilbara networks and interconnected  
22 Pilbara networks, including by providing for —
- 23 (i) the provision, operation and  
24 maintenance of metering equipment;  
25 and
- 26 (ii) ownership of and access to metering  
27 data;
- 28 (i) provide, or authorise the Pilbara networks rules  
29 to provide, for the regulation of the disclosure  
30 and use of confidential or commercially  
31 sensitive information;
- 32 (j) in respect of costs incurred in the performance  
33 of functions conferred on a person or body

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- 1 referred to in paragraph (b)(ii) to (vi), provide  
2 for —
- 3 (i) the implementation of accounting  
4 arrangements to enable those costs to be  
5 identified; and
- 6 (ii) the allocation of those costs between  
7 Pilbara networks participants; and
- 8 (iii) the recovery of those costs;
- 9 (k) provide, or authorise the Pilbara networks rules  
10 to provide, for the regulation of matters —
- 11 (i) of a savings, transitional or  
12 supplementary nature; or
- 13 (ii) that are otherwise necessary or  
14 convenient for the purposes of this  
15 Division.
- 16 (3) The reference to costs in subsection (2)(j) includes, in  
17 relation to the Pilbara ISO, any costs incurred in  
18 anticipation of, or in preparation for, the performance  
19 of the functions of the Pilbara ISO.
- 20 (4) Despite subsection (2), the regulations may regulate the  
21 conduct of, and confer rights and impose obligations  
22 on, network service providers of Pilbara networks that  
23 are not covered Pilbara networks or interconnected  
24 Pilbara networks only for the purposes set out in  
25 section 120K(3).
- 26 **120O. Additional matters to be dealt with in regulations or**  
27 **rules**
- 28 (1) Without limiting section 120N(2)(a), the regulations  
29 may prohibit persons from engaging in an activity  
30 specified in the regulations unless they are registered in  
31 accordance with the Pilbara networks rules.

- 1           (2) The regulations or the Pilbara networks rules may  
2           provide that if the disclosure or use of confidential or  
3           commercially sensitive information is authorised by the  
4           rules —
- 5               (a) no civil or criminal liability is incurred in  
6               respect of the use or disclosure; and
- 7               (b) the use or disclosure is not to be regarded as —
- 8                   (i) a breach of any duty of confidentiality  
9                   or secrecy imposed by law or contract;  
10                  or
- 11                  (ii) a breach of professional ethics or  
12                  standards or any principles of conduct  
13                  applicable to a person’s employment; or  
14                  (iii) unprofessional conduct.
- 15           (3) The regulations, the Pilbara networks rules, an  
16           instrument made under the Pilbara networks rules or an  
17           instrument amending any of them, may apply, adopt or  
18           incorporate, with or without modification, material  
19           contained in any other document or writing as in effect  
20           or existing —
- 21               (a) when the regulations, Pilbara networks rules,  
22               instrument or amending instrument comes into  
23               operation; or
- 24               (b) at a specified prior time.
- 25           (4) Without limiting section 120N(2)(j), if it is  
26           inappropriate to prescribe a set fee or charge in  
27           connection with the performance of a particular  
28           function, the regulations may provide for the method of  
29           calculating the fee or charge, including calculation  
30           according to the cost of performing that function.
- 31           (5) The regulations, or the rules referred to in  
32           section 120N(2)(k)(i), may authorise the Minister to  
33           determine by order published in the *Gazette* how any

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1 matter or thing in progress immediately before the  
2 commencement of the Pilbara networks rules is to be  
3 treated, after that commencement, for the purposes of  
4 the provisions of the Pilbara networks rules.

5 **120P. Additional matters to be dealt with in rules: more**  
6 **than one provider**

7 The regulations may provide that the Pilbara networks  
8 rules may provide for the following —

- 9 (a) that if there is more than one Pilbara network  
10 service provider for a Pilbara network and a  
11 thing is required or permitted by the Pilbara  
12 networks rules to be done by the Pilbara  
13 network service providers, one of the Pilbara  
14 network service providers may, with the  
15 consent of one or more of the other providers,  
16 do that thing on behalf of those consenting  
17 providers;
- 18 (b) that a thing done or omitted to be done by a  
19 Pilbara network service provider on behalf of  
20 another Pilbara network service provider for a  
21 Pilbara network as referred to in paragraph (a)  
22 is taken to have been done or omitted to be  
23 done by that other Pilbara network service  
24 provider;
- 25 (c) that if there is more than one Pilbara network  
26 service provider for a Pilbara network and the  
27 Pilbara network service providers publish an  
28 instrument in accordance with the Pilbara  
29 networks rules that allocates things required or  
30 permitted by those rules to be done between  
31 those Pilbara network service providers, the  
32 provider to whom the thing is allocated under  
33 that instrument is required or permitted to do  
34 that thing.



1                   **Division 4 — Pilbara networks technical rules**

2           **120Q. Technical rules**

- 3           (1) The regulations may provide for the following —
- 4                   (a) for the making, formulation and approval of
- 5                   technical rules for the purposes of this Part;
- 6                   (b) for the Pilbara Networks Access Code or the
- 7                   Pilbara networks rules to provide for the
- 8                   making, formulation and approval of technical
- 9                   rules for the purposes of this Part.
- 10          (2) The technical rules may include rules made for the
- 11          purposes of all or any of the following —
- 12                  (a) access to services of covered Pilbara networks;
- 13                  (b) network and system operations, power system
- 14                  reliability and stability and system security for
- 15                  covered Pilbara networks and interconnected
- 16                  Pilbara networks.

17                   **Division 5 — Enforcement**

18           **120R. References to contravening regulations, Pilbara**

19           **Networks Access Code or Pilbara networks rules**

20           A reference in this Division to contravening a

21           provision of the regulations or the Pilbara Networks

22           Access Code or the Pilbara networks rules includes a

23           reference to —

- 24                  (a) attempting to contravene the provision; or
- 25                  (b) aiding, abetting, counselling or procuring a
- 26                  person to contravene the provision; or
- 27                  (c) inducing, or attempting to induce, a person,
- 28                  whether by threats or promises or otherwise, to
- 29                  contravene the provision; or

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- 1 (d) being in any way, directly or indirectly,  
2 knowingly concerned in, or party to, the  
3 contravention by a person of the provision; or  
4 (e) conspiring with others to contravene the  
5 provision.

6 **120S. Prohibitions on hindering or preventing access**

- 7 (1) In this section —  
8 *associate*, in relation to a person, has the meaning it  
9 would have under the *Corporations Act 2001*  
10 (Commonwealth) Part 1.2 Division 2 if sections 13,  
11 16(2) and 17 of that Act were deleted.
- 12 (2) A Pilbara network service provider of a covered  
13 Pilbara network that is regulated under this Part, or an  
14 associate of the Pilbara network service provider, must  
15 not engage in conduct for the purpose of hindering or  
16 preventing —  
17 (a) access by any person to services in accordance  
18 with this Part; or  
19 (b) the making of Pilbara access agreements or any  
20 particular agreement in respect of that network;  
21 or  
22 (c) the access to which a person is entitled under a  
23 Pilbara access agreement or a determination  
24 made by way of arbitration.

25 Penalty for this subsection: a fine of \$100 000.

26 Daily penalty for this subsection: a fine of \$20 000.

- 1           (3) A person who has access to services, or an associate of  
2           the person, must not engage in conduct for the purpose  
3           of hindering or preventing access by another person to  
4           services of a covered Pilbara network that is regulated  
5           under this Part.  
6           Penalty for this subsection: a fine of \$100 000.  
7           Daily penalty for this subsection: a fine of \$20 000.
- 8           (4) Without limiting subsection (2) or (3) —
- 9               (a) a person is taken to engage in conduct for a  
10              particular purpose if —
- 11                   (i) the conduct is or was engaged in for  
12                   purposes that include, or included, that  
13                   purpose; and
- 14                   (ii) that purpose is or was a substantial  
15                   purpose;
- 16              and
- 17               (b) a person may be taken to have engaged in  
18              conduct for a particular purpose even though,  
19              after all the evidence has been considered, the  
20              existence of that purpose is ascertainable only  
21              by inference from the conduct of the person or  
22              of any other person or from other relevant  
23              circumstances.
- 24           (5) In this section —
- 25               (a) a reference to engaging in conduct is a  
26              reference to doing or refusing to do any act and  
27              includes a reference to —
- 28                   (i) making a contract, agreement or  
29                   arrangement or giving effect to a  
30                   provision of a contract, agreement or  
31                   arrangement; or

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- 1 (ii) arriving at an understanding or giving  
2 effect to a provision of an  
3 understanding; or  
4 (iii) requiring a covenant to be given or  
5 giving a covenant;  
6 and  
7 (b) a reference to refusing to do an act includes a  
8 reference to —  
9 (i) refraining (otherwise than inadvertently)  
10 from doing the act; or  
11 (ii) making it known that the act will not be  
12 done.
- 13 (6) Subsection (2) or (3) does not apply to conduct in  
14 which a person engaged in accordance with an  
15 agreement, if the agreement was in force on  
16 30 March 1995.

17 **120T. Proceedings**

- 18 (1) Civil proceedings cannot be brought in respect of a  
19 matter arising under the Pilbara Networks Access Code  
20 except —  
21 (a) in accordance with the regulations; or  
22 (b) by arbitration under the Pilbara Networks  
23 Access Code; or  
24 (c) in accordance with section 130.
- 25 (2) Nothing in subsection (1) affects the right of a  
26 person —  
27 (a) to bring civil proceedings in respect of any  
28 matter or thing, or seek any relief or remedy, if  
29 the cause of action arises, or the relief or  
30 remedy is sought, on grounds that do not rely  
31 on the Pilbara Networks Access Code; or

- 1                   (b) to bring proceedings for judicial review of a  
2                   decision made under this Act or the Pilbara  
3                   Networks Access Code.

4           **120U. Criminal proceedings do not lie**

- 5           (1) Criminal proceedings (including proceedings under  
6           *The Criminal Code* section 177 or 178) do not lie  
7           against a person by reason only that the person has  
8           contravened a provision of the Pilbara Networks  
9           Access Code.
- 10          (2) Nothing in subsection (1) affects section 120S.

11          **120V. Regulations as to enforcement of Pilbara Networks**  
12          **Access Code and Pilbara networks rules**

- 13          (1) The regulations may prescribe all matters that are  
14          necessary or convenient to be prescribed for the  
15          enforcement of the Pilbara Networks Access Code and  
16          the Pilbara networks rules.
- 17          (2) Without limiting section 131 or 131B or subsection (1),  
18          the regulations may do all or any of the following —
- 19                  (a) provide that a provision of the Pilbara  
20                  Networks Access Code or the Pilbara networks  
21                  rules specified in the regulations, or of a class  
22                  specified in the regulations, is a civil penalty  
23                  provision for the purposes of the regulations;
- 24                  (b) prescribe, for a contravention of a civil penalty  
25                  provision the following amounts that may, in  
26                  accordance with the regulations, be demanded  
27                  from or imposed upon a person who  
28                  contravenes the provision —
- 29                          (i) an amount not exceeding \$100 000; and  
30                          (ii) in addition a daily amount not  
31                          exceeding \$20 000;

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- 1 (c) provide for demands for the payment of  
2 amounts referred to in paragraph (b) and the  
3 enforcement of demands for their payment;
- 4 (d) provide for and regulate the taking of  
5 proceedings in respect of alleged  
6 contraventions of provisions of the Pilbara  
7 Networks Access Code or the Pilbara networks  
8 rules, provide for the orders that can be made  
9 and other sanctions that can be imposed in  
10 those proceedings and provide for the  
11 enforcement of those orders and sanctions;
- 12 (e) provide for the manner in which amounts  
13 received by way of civil penalties are to be  
14 dealt with and applied;
- 15 (f) provide for and regulate the taking of  
16 proceedings before the Supreme Court for an  
17 injunction restraining engagement in conduct  
18 contravening a provision of the Pilbara  
19 Networks Access Code or the Pilbara networks  
20 rules and provide for the granting of an  
21 injunction (including an interim injunction) and  
22 the rescission or variation of an injunction so  
23 granted;
- 24 (g) provide for and regulate the taking of  
25 proceedings before the Supreme Court for a  
26 declaration as to whether a provision of the  
27 Pilbara Networks Access Code or the Pilbara  
28 networks rules is being or has been contravened  
29 and provide for the orders that can be made in  
30 those proceedings;
- 31 (h) provide for and regulate the taking of action for  
32 the recovery of an amount of loss or damage  
33 suffered because of conduct contravening a  
34 provision of the Pilbara Networks Access Code  
35 or the Pilbara networks rules;

1                   (i) provide for and regulate the making of  
2                   applications for, and the issue of, warrants  
3                   relating to the investigation of alleged  
4                   contraventions of provisions of the Pilbara  
5                   Networks Access Code or the Pilbara networks  
6                   rules and for the powers exercisable under  
7                   warrants.

8                   (3) In subsection (2)(b)(ii) —  
9                   *daily amount* means an amount for each day or part of  
10                  a day during which the contravention continues.

11                   **Division 6 — Independent system operator**

12                  **120W. Independent system operator**

- 13                  (1) There is to be an independent system operator for  
14                  Pilbara networks (the *Pilbara ISO*).
- 15                  (2) The Pilbara ISO is to be a person specified in the  
16                  regulations.
- 17                  (3) Without limiting subsection (2), the regulations may  
18                  specify the Regional Power Corporation as the Pilbara  
19                  ISO.
- 20                  (4) Subject to subsection (5), the Pilbara ISO has the  
21                  following functions —
- 22                          (a) to maintain and improve system security in any  
23                          interconnected Pilbara system;
- 24                          (b) to facilitate overall network co-ordination and  
25                          planning for interconnected Pilbara systems;
- 26                          (c) any functions in relation to covered Pilbara  
27                          networks given by this Act, the regulations, the  
28                          Pilbara Networks Access Code or the Pilbara  
29                          networks rules;

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- 1 (d) in relation to Pilbara networks that are not  
2 covered Pilbara networks or part of an  
3 interconnected Pilbara system —  
4 (i) to collect and consider information  
5 relating to the operation, management,  
6 security and reliability of the Pilbara  
7 networks; and  
8 (ii) to report as specified by the regulations  
9 to the Minister, the Authority or a  
10 specified person on those matters; and  
11 (iii) to publish information on those matters.
- 12 (5) The regulations may specify that the initial Pilbara ISO  
13 is to have only those functions mentioned in  
14 subsection (4) that are specified in the regulations.

15 **120X. Regulations relating to Pilbara ISO**

- 16 The regulations may provide, or authorise the Pilbara  
17 Networks Access Code or the Pilbara networks rules to  
18 provide, for the following —  
19 (a) that the Pilbara ISO may delegate the  
20 performance of a function to another person or  
21 body;  
22 (b) that a delegation under paragraph (a) may  
23 permit the delegate to further delegate the  
24 performance of the function in accordance with  
25 the delegation;  
26 (c) the regulation of delegations under this section;  
27 (d) the regulation of contracts relating to  
28 delegations under this section, including that  
29 such contracts must comply with the  
30 requirements specified in the regulations, code  
31 or rules;



- 1 (e) the obligations of the Pilbara ISO in relation to  
2 a function the performance of which has been  
3 delegated to another person or body;
- 4 (f) the obligations of the Pilbara ISO in relation to  
5 the segregation of the functions of the Pilbara  
6 ISO under this Part (including as to personnel,  
7 operations, financial and legal matters and  
8 related matters) from other functions and  
9 business of the Pilbara ISO;
- 10 (g) the obligations of the Pilbara ISO to —
- 11 (i) report as specified by the regulations to  
12 the Minister, the Authority or a  
13 specified person on specified matters;  
14 and
- 15 (ii) prepare and publish information on  
16 specified matters.

17 **Division 7 — Functions of Authority**

18 **120Y. Functions of Authority**

- 19 (1) The Authority has the functions conferred on it under  
20 this Part.
- 21 (2) Without limiting section 131 or 131B or subsection (1),  
22 the regulations may provide for the obligations of the  
23 Authority to —
- 24 (a) report to the Minister on specified matters; and  
25 (b) prepare and publish information on specified  
26 matters.

27 **Division 8 — Reviews of decisions**

28 **120Z. Reviews of decisions**

- 29 (1) Application may be made to the Board for the review  
30 by the Board of decisions of the following that are

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- 1 made under the regulations or the Pilbara networks  
2 rules and are of a class specified in the regulations —
- 3 (a) a person on whom functions are conferred  
4 under this Part;
- 5 (b) a person on whom functions relating to this Part  
6 are conferred by another written law.
- 7 (2) Regulations may —
- 8 (a) provide for the powers of the Board in relation  
9 to reviews provided for in those regulations;  
10 and
- 11 (b) make other provision that it is necessary or  
12 convenient to make in relation to those reviews.
- 13 (3) Nothing in subsection (1) prevents or affects the review  
14 by a court or tribunal, according to law, of decisions of  
15 the persons referred to in that subsection made under  
16 the regulations or the Pilbara networks rules.

17 **Division 9 — Immunity**

18 **120ZA. Terms used**

- 19 (1) In this Division —
- 20 ***civil monetary liability*** means liability to pay damages  
21 or compensation or any other amount ordered in a civil  
22 proceeding, but does not include liability to pay a civil  
23 penalty under the regulations;
- 24 ***entity*** includes the following —
- 25 (a) a body corporate;
- 26 (b) a partnership;
- 27 (c) an unincorporated body;
- 28 (d) an individual;
- 29 (e) for a trust that has only 1 trustee —the trustee;

- 1                   (f) for a trust that has more than 1 trustee —the  
2                   trustees together;
- 3                   **officer** of an entity that is a corporation has the  
4                   meaning given to officer of a corporation in the  
5                   *Corporations Act 2001* (Commonwealth) section 9;
- 6                   **officer** of an entity that is neither an individual nor a  
7                   corporation has the meaning given to that term in the  
8                   *Corporations Act 2001* (Commonwealth) section 9;
- 9                   **participant** means a person —
- 10                  (a) on whom functions are conferred under this  
11                  Part; or
- 12                  (b) to whom the performance of a function has  
13                  been delegated under this Part; or
- 14                  (c) on whom functions relating to this Part are  
15                  conferred by another written law;
- 16                   **preparing entity** means an entity that enters into an  
17                   arrangement with the State, including before the  
18                   commencement of the *Electricity Industry Amendment*  
19                   *Act 2019*, to carry out preparatory work in anticipation  
20                   of, or in preparation for, the performance by the entity  
21                   of any of the functions of the Pilbara ISO under this  
22                   Part.
- 23                  (2) In this Division, a reference to the commencement of  
24                  the *Electricity Industry Amendment Act 2019* is a  
25                  reference to the day on which section 19 of that Act  
26                  comes into operation.

27                  **120ZB. Immunity of participants and their officers or**  
28                  **employees**

- 29                  (1) A participant, or an officer or employee of a  
30                  participant, does not incur any civil monetary liability  
31                  for an act or omission of the participant, a delegate of  
32                  the participant or a delegate of the delegate, or an  
33                  officer or employee of any of them, done or made in

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- 1 good faith in the performance, or purported  
2 performance, of a function under this Part.
- 3 (2) Subsection (1) has effect —
- 4 (a) in respect of all participants, and officers and  
5 employees of them, other than the Pilbara ISO,  
6 and officers and employees of it — subject to  
7 section 120ZC; and
- 8 (b) in respect of all participants, and officers and  
9 employees of them — subject to  
10 section 120ZD.
- 11 (3) An entity with which the Pilbara ISO enters into a  
12 contract in relation to the Pilbara ISO's performance of  
13 a function under this Part does not incur any civil  
14 monetary liability for an act or omission of the entity,  
15 or an officer or employee of it, done or made in good  
16 faith in the performance, or purported performance, of  
17 the contract.
- 18 (4) Subsection (3) has effect subject to sections 120ZC and  
19 120ZD, as if the reference in section 120ZD(1) to  
20 12 months were a reference to 2 months.
- 21 (5) The Pilbara ISO or a preparing entity, or an officer or  
22 employee of either of them, does not incur any civil  
23 monetary liability for an act or omission of the Pilbara  
24 ISO or the preparing entity, or an officer or employee  
25 of either of them, done or made, including before the  
26 commencement of the *Electricity Industry Amendment*  
27 *Act 2019*, in good faith in anticipation of, or in  
28 preparation or purported preparation for, the  
29 performance of a function under this Part.

1           **120ZC. Regulations may limit or affect immunity**

2           The regulations may, for the purposes of  
3           section 120ZB, without limitation —

- 4           (a) impose conditions on an immunity granted to  
5           an entity under section 120ZB; or  
6           (b) prescribe that an immunity granted under  
7           section 120ZB is limited in its application to  
8           entities, events, circumstances, losses or  
9           periods to which they are expressed to apply.

10           **120ZD. Limitation on immunity after initial period**

11           (1) If an act or omission done or made after the expiration  
12           of the period of 12 months from the establishment of  
13           the initial Pilbara networks rules is negligent —

- 14           (a) the immunity given by section 120ZB does not  
15           apply to that act or omission; but  
16           (b) as long as that act or omission is done or made  
17           in good faith, the civil monetary liability for it  
18           is not to exceed the prescribed maximum  
19           amount.

20           (2) The regulations may exempt a specified participant  
21           from the operation of subsection (1)(a).

22           (3) The regulations may, for the purposes of  
23           subsection (1)(b), without limitation —

- 24           (a) prescribe a maximum amount that is limited in  
25           its application to entities, events,  
26           circumstances, losses or periods to which they  
27           are expressed to apply; or  
28           (b) prescribe maximum amounts that vary in their  
29           application according to the entities, events,  
30           circumstances, losses or periods to which they  
31           are expressed to apply; or

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- 1 (c) prescribe a manner in which the maximum  
2 amount is to be divided amongst claimants.

3 **120ZE. Liability of officer of an entity to that entity not**  
4 **affected**

5 This Division does not apply to any liability of an  
6 officer of an entity (other than an entity that is an  
7 individual) to that entity.

8 **Division 10 — Competition authorisation**

9 **120ZF. Competition authorisation by regulation**

- 10 (1) In this section —  
11 *arrangement* includes any contract, arrangement or  
12 understanding, or any market practice or market or  
13 customer restriction, division, allocation or segregation  
14 of any nature, or a course of conduct or dealing.
- 15 (2) The regulations may authorise or approve any  
16 arrangement, act, matter or thing in relation to the  
17 Pilbara Networks Access Code or the Pilbara networks  
18 rules for the purposes of the *Competition and*  
19 *Consumer Act 2010* (Commonwealth) and the  
20 Competition Code.

21 **Division 11 — Review of system**

22 **120ZG. Review of regulation of Pilbara networks**

- 23 (1) The Authority is to review the operation of the  
24 regulatory arrangements established for Pilbara  
25 networks under this Part —
- 26 (a) as soon as practicable after the 5<sup>th</sup> anniversary  
27 of the day on which the *Electricity Industry*  
28 *Amendment Act 2019* section 19 comes into  
29 operation; and
- 30 (b) after that, at intervals of not more than 5 years.

- 1           (2) The purpose of the review is to assess the extent to  
2           which the Pilbara electricity objective has been or is  
3           being achieved.
- 4           (3) The Authority is, for each review, to give the Minister  
5           a written report based on the review not later than  
6           12 months after the review commences.
- 7           (4) If the Authority considers that part or all of the Pilbara  
8           electricity objective has not been or is not being  
9           achieved, the report is to set out recommendations as to  
10          how the objective can be achieved.
- 11          (5) Not later than 6 months after receiving the report the  
12          Minister is to —
- 13               (a) cause the report to be laid before each House of  
14               Parliament; and
- 15               (b) prepare a response to the report and cause the  
16               response to be laid before each House of  
17               Parliament.
- 18          (6) As soon as practicable after the report is laid before  
19          each House of Parliament, the Authority is to make a  
20          copy of the report publicly available on a website  
21          maintained by or on behalf of the Authority.

22           **120ZH. Public consultation**

- 23           (1) In the course of conducting a review under  
24           section 120ZG, the Authority is to seek public  
25           comment on the extent to which the Pilbara electricity  
26           objective has been or is being achieved (the *issue*).
- 27           (2) The Authority is to cause a notice giving a general  
28           description of the issue to be —
- 29               (a) published in a daily newspaper circulating  
30               throughout the State; and
- 31               (b) made publicly available on a website  
32               maintained by or on behalf of the Authority.

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- 1 (3) The notice is to include —
- 2 (a) a statement that any person may, within a
- 3 specified period, make written submissions on
- 4 the issue to the Authority; and
- 5 (b) the address (including an email address) to
- 6 which the submissions may be delivered or
- 7 sent.
- 8 (4) The period specified under subsection (3)(a) is not to
- 9 end less than 30 days after the day on which the notice
- 10 is published under subsection (2)(a).
- 11 (5) The Authority is to have regard to any submission
- 12 made in accordance with the notice and may have
- 13 regard to any other submission received on the issue.

14 **Division 12 — Transitional provisions**

15 **120ZI. Pilbara Networks Access Code and Pilbara**

16 **networks rules do not affect existing agreements**

- 17 (1) The making and operation of the Pilbara Networks
- 18 Access Code or the Pilbara networks rules —
- 19 (a) do not affect the terms and conditions, or the
- 20 operation, of —
- 21 (i) an agreement for access to services in
- 22 operation immediately before the
- 23 commencement of the Pilbara Networks
- 24 Access Code whether under the
- 25 *Electricity Transmission and*
- 26 *Distribution Systems (Access) Act 1994*
- 27 or otherwise; or



- 1 (ii) an agreement for the supply of  
2 electricity or related services in  
3 operation immediately before the  
4 commencement of the Pilbara networks  
5 rules;  
6 and  
7 (b) do not afford a party to the agreement any  
8 ground or reason for not complying with the  
9 agreement according to its terms and  
10 conditions.
- 11 (2) Subsection (1)(a) or (b) does not apply if the Pilbara  
12 Networks Access Code or the Pilbara networks rules or  
13 the agreement or an enactment provides otherwise.  
14

15 **20. Section 126 amended**

- 16 (1) In section 126(1) delete the definition of *officer*.
- 17 (2) In section 126(1) insert in alphabetical order:  
18  
19 *officer* of a body corporate that is a corporation has the  
20 same meaning as it has in section 9 of the *Corporations*  
21 *Act 2001* (Commonwealth);  
22 *officer* of a body corporate that is not a corporation has  
23 the same meaning as it has in section 9 of the  
24 *Corporations Act 2001* (Commonwealth);  
25
- 26 (3) In section 126(1) in the definition of *civil monetary penalty*  
27 delete "*penalty*" and insert:  
28  
29 *liability*  
30

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1 (4) In section 126(3)(b) delete “penalty” and insert:

2

3 liability

4

5 **21. Section 127 amended**

6 In section 127(2) delete “*Trade Practices Act 1974* of the  
7 Commonwealth” and insert:

8

9 *Competition and Consumer Act 2010* (Commonwealth)

10

11 Note: The heading to amended section 127 is to read:

12 **Competition authorisation by regulation**

13 **22. Section 128 amended**

14 In section 128(6) delete “an internet website” and insert:

15

16 a website

17

18 **23. Section 129 amended**

19 (1) In section 129(2)(b) delete “an internet website” and insert:

20

21 a website

22

23 (2) Delete section 129(3)(b) and insert:

24

25 (b) the address (including an email address) to  
26 which the submissions may be delivered or  
27 sent.

28

1   **24.   Section 129B amended**

2           In section 129B delete the definition of *Code*.

3   **25.   Section 129F amended**

4           In section 129F(3):

5           (a)   in paragraph (b)(i) delete “section 104(2)(c); and” and  
6               insert:

7  
8               section 104B(a); and

9  
10          (b)   in paragraph (b)(ii) delete “section 104(2)(h)(i).” and  
11               insert:

12  
13               section 104B(f).

14  
15   **26.   Part 9B inserted**

16           After Part 9A insert:

17  
18                   **Part 9B — Temporary access contribution**

19           **129K.   Purpose of this Part**

20                   The purpose of this Part is to contribute towards  
21                   maintaining the financial viability of the Regional  
22                   Power Corporation by allowing the Regional Power  
23                   Corporation to recover all or part of its historical  
24                   generation costs.

25           **129L.   Terms used**

26                   In this Part, unless the contrary intention appears —  
27                   *contestable annual volume* means the portion of total  
28                   annual volume that is a contestable supply;

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- 1                    **contestable proportion** means that proportion of the  
2                    Regional Power Corporation's total supply of  
3                    electricity in a financial year to consumers through its  
4                    covered Pilbara network that is a contestable supply,  
5                    calculated as contestable annual volume divided by  
6                    total annual volume;
- 7                    **contestable supply** means the supply of electricity to  
8                    consumers who are not prescribed customers;
- 9                    **costs** means capital and non-capital costs;
- 10                   **generation costs** means any costs incurred by the  
11                   Regional Power Corporation to generate or procure  
12                   electricity for supply to consumers through the  
13                   interconnected Pilbara network;
- 14                   **historical generation costs** means any generation  
15                   costs —
- 16                   (a) that were incurred before 19 August 2019; or  
17                   (b) that are incurred on or after 19 August 2019  
18                   under commitments made by the Regional  
19                   Power Corporation before that date and that are  
20                   costs that a prudent supplier, seeking to  
21                   reasonably minimise costs, could not  
22                   reasonably avoid;
- 23                   **NBU** means the segment of the Regional Power  
24                   Corporation that has the functions and business of  
25                   providing services through the interconnected Pilbara  
26                   network;
- 27                   **prescribed customer** has the meaning given to that  
28                   term in the *Electricity Corporations Act 2005*  
29                   section 54;
- 30                   **Temporary Access Contribution Account** means the  
31                   account referred to in section 129M;
- 32                   **temporary access contribution** means a temporary  
33                   access contribution determined under section 129N(1);

1                    **termination date** means the date prescribed by the  
2 regulations as the termination date;

3                    **total annual volume** means the total quantity of  
4 electricity supplied by the Regional Power Corporation  
5 in a financial year through its covered Pilbara network,  
6 expressed in kilowatt hours;

7                    **user** means a Pilbara network user as defined in  
8 section 120.

9                    **129M. Temporary Access Contribution Account**

10                    (1) An agency special purpose account called the  
11 Temporary Access Contribution Account is established  
12 under the *Financial Management Act 2006* section 16.

13                    (2) There are to be credited to the Temporary Access  
14 Contribution Account —

15                            (a) each temporary access contribution paid by the  
16 NBU under section 129P(1); and

17                            (b) the amount of any income determined by the  
18 Treasurer (at a rate determined by the  
19 Treasurer) to be attributable to the investment  
20 under the *Financial Management Act 2006*  
21 section 37 of money standing to the credit of  
22 the Temporary Access Contribution Account;  
23 and

24                            (c) any other amount lawfully received for the  
25 purposes of the Account.

26                    **129N. Determination of temporary access contributions**

27                    (1) The Treasurer must for each financial year, until the  
28 termination date, determine, by notice published in the  
29 *Gazette*, an amount of temporary access contribution  
30 that is payable by NBU in respect of that financial year.

31                    (2) The Treasurer must for each financial year, until the  
32 termination date, determine the cost to the Regional

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- 1 Power Corporation of its historical generation costs for  
2 that financial year.
- 3 (3) The temporary access contribution determined for a  
4 financial year must not exceed the contestable  
5 proportion of the cost determined for that financial year  
6 under subsection (2).
- 7 (4) In making a determination under subsection (1) for a  
8 financial year, the Treasurer must have regard to —
- 9 (a) the amount required to compensate the  
10 Regional Power Corporation for the cost  
11 determined under subsection (2) for that  
12 financial year; and
- 13 (b) the moneys standing to the credit of the  
14 Temporary Access Contribution Account; and
- 15 (c) any service standards to be observed by the  
16 Regional Power Corporation; and
- 17 (d) any other prescribed matters.
- 18 (5) In subsection (4)(c) —  
19 *service standards* means standards referred to in  
20 section 39(2)(d) that are provided for in a code  
21 prepared and issued under section 39.
- 22 (6) The Treasurer must consult with the Minister before  
23 making a determination under this section.
- 24 **129O. Treasurer may seek advice from the Authority**
- 25 (1) Before making a determination under section 129N(1)  
26 the Treasurer may ask the Authority for advice on any  
27 matter referred to in section 129N(4) or any other  
28 matter that the Treasurer considers relevant.
- 29 (2) It is a function of the Authority to give advice when  
30 asked to do so under subsection (1).

- 1           (3) The Treasurer must cause advice given by the  
2           Authority under subsection (2) to be published on an  
3           appropriate website when the determination is made.
- 4           **129P. Payment and passing on of temporary access**  
5           **contribution**
- 6           (1) NBU must pay temporary access contributions into the  
7           Temporary Access Contribution Account, at the times  
8           and in the manner determined by the Treasurer.
- 9           (2) Users accessing services of the Regional Power  
10          Corporation's covered Pilbara network must make  
11          payments to NBU in accordance with the Pilbara  
12          Networks Access Code in respect of temporary access  
13          contributions payable by NBU under subsection (1).
- 14          (3) The Pilbara Networks Access Code may exempt users  
15          or classes of users specified in the code from  
16          subsection (2) in the circumstances specified in the  
17          code.
- 18          (4) Without limiting Part 8A Division 2, the Pilbara  
19          Networks Access Code may provide for —
- 20                  (a) the determination of the amounts payable by  
21                  users under subsection (2) and the manner in  
22                  which those amounts are to be collected; and
- 23                  (b) temporary access contributions and the  
24                  obligations of users under subsection (2) to be  
25                  taken into account in the determination,  
26                  publication or approval of prices under Part 8  
27                  or Part 8A or in the resolution of disputes in  
28                  relation to those prices.
- 29          (5) The regulations may provide for the regulation of  
30          matters of a savings or transitional nature in relation to  
31          payments in respect of temporary access contributions.

- 1           **129Q. Payments from Temporary Access Contribution**  
2           **Account**
- 3           (1) If a temporary access contribution is payable by NBU  
4           in respect of a financial year, the Treasurer must pay to  
5           the Regional Power Corporation in respect of that  
6           financial year the amount that the Treasurer considers  
7           necessary for the purpose of this Part having regard  
8           to —
- 9                 (a) the matters referred to in section 129N(4)(a),  
10                 (b) and (c); and
- 11                 (b) any other prescribed matters.
- 12           (2) Payments under subsection (1) are to be made from the  
13           Temporary Access Contribution Account.
- 14           (3) Without limiting Part 8A Division 2, the Pilbara  
15           Networks Access Code may provide for reporting by  
16           the Regional Power Corporation of any amounts  
17           received from the Temporary Access Contribution  
18           Account in each financial year.
- 19           **129R. Information**
- 20           The Regional Power Corporation must provide any  
21           information, or access to information, that is necessary  
22           to assist the Treasurer and the Authority to perform  
23           their functions under this Part.
- 24           **129S. Treasurer to recommend regulations**
- 25           Regulations are not to be made for this Part except on  
26           the Treasurer's recommendation.



1           **129T. Delegation by Treasurer**

2                           The *Financial Management Act 2006* sections 74(2),  
3                           76(2) and 77 apply to a power conferred on the  
4                           Treasurer under a provision of this Part (other than  
5                           section 129S) as if it were conferred by that Act.  
6

7           **27. Section 130 amended**

8           (1) In section 130(1) delete the definition of *Code*.

9           (2) In section 130(2):

10                   (a) delete paragraph (i) and insert:

11  
12                           (i) a decision by the Minister under the Code that  
13                           network infrastructure facilities are to become  
14                           covered networks or are to cease to be covered  
15                           networks; or

16                           (ia) a decision by the Minister under the Pilbara  
17                           Networks Access Code that a covered Pilbara  
18                           network is to be subject to regulation under  
19                           Part 8 or Part 8A, or is to cease to be subject to  
20                           regulation under Part 8 or 8A; or

21                           (ib) a decision under the Pilbara Networks Access  
22                           Code as to whether a network service provider  
23                           of a Pilbara network has satisfied the  
24                           requirements in the Pilbara Networks Access  
25                           Code for the provider to opt for the access to  
26                           services of the network to be subject to  
27                           regulation under Part 8A or to cease to be  
28                           subject to regulation under Part 8A; or

29  
30                   (b) in paragraph (j) after “Code” insert:

31

32                           or the Pilbara Networks Access Code

33

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- 1 (c) in paragraph (k) delete “section 104(2)(c); or” and  
2 insert:  
3  
4 section 104B(a); or  
5  
6 (d) after paragraph (k) insert:  
7  
8 (ka) a decision by the Authority to approve or not to  
9 approve a thing for which the approval of the  
10 Authority is required under the Pilbara  
11 Networks Access Code; or  
12  
13 (e) in paragraph (l) delete “Part 8.” and insert:  
14  
15 Part 8 or 8A.  
16

17 **28. Section 131B inserted**

18 After section 131 insert:  
19

20 **131B. Enforcement of the regulations**

- 21 (1) Without limiting section 131, the regulations may  
22 prescribe all matters that are necessary or convenient to  
23 be prescribed for the enforcement of the regulations.  
24 (2) The regulations may —  
25 (a) provide that a contravention of a regulation is  
26 an offence; and  
27 (b) prescribe a penalty of a fine of not more than  
28 \$100 000, with or without a daily penalty of a  
29 fine of not more than \$20 000, for an offence  
30 against the regulations.  
31

1 **29. Section 133 amended**

2 In section 133(1) delete “the arbitrator” and insert:

3

4 an arbitrator

5

1 **Part 3 — Consequential amendments to other Acts**

2 **30. *Electricity Corporations Act 2005* amended**

3 (1) This section amends the *Electricity Corporations Act 2005*.

4 (2) In section 41:

5 (a) after paragraph (b) insert:

6

7 (ba) to provide stand-alone power systems (as  
8 defined in the *Electricity Industry Act 2004*  
9 section 3(1)) in accordance with the regulations  
10 and Code made under Part 8 of that Act; and  
11

12 (b) in paragraph (i) before “undertake,” insert:

13

14 construct, install,  
15

16 (3) After section 50(c) insert:

17

18 (ca) to do anything that it is authorised or required  
19 to do by the *Electricity Industry Act 2004*  
20 Part 8A (which relates to network access in the  
21 Pilbara region) and the regulations, Pilbara  
22 Networks Access Code and Pilbara networks  
23 rules made under that Part; and  
24

25 (4) In section 54(1) in the definition of *services* delete  
26 “section 103.” and insert:

27

28 section 3.  
29

1       (5) In section 54(8) delete “Part 8.” and insert:

2

3               Part 8 or 8A.

4

5       **31.       *Energy Operators (Powers) Act 1979* amended**

6       (1) This section amends the *Energy Operators (Powers) Act 1979*.

7       (2) After section 45(4) insert:

8

9               (4A) In subsection (4)(a) —

10                       *generating works* does not include a stand-alone power  
11                       system (as defined in the *Electricity Industry Act 2004*  
12                       section 3(1)) being constructed, installed, operated or  
13                       maintained in accordance with the regulations and  
14                       Code made under Part 8 of that Act.

15

16

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