

Electricity Industry Amendment (Alternative Electricity Services) Bill 2023

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Western Australia

LEGISLATIVE ASSEMBLY

**Electricity Industry Amendment (Alternative
Electricity Services) Bill 2023**

A Bill for

**An Act to amend the *Electricity Industry Act 2004* in relation to
alternative electricity services and to make consequential
amendments to the *Electricity Act 1945*.**

The Parliament of Western Australia enacts as follows:

1

Part 1 — Preliminary

2

1. Short title

3

This is the *Electricity Industry Amendment (Alternative Electricity Services) Act 2023*.

4

5

2. Commencement

6

This Act comes into operation as follows —

7

(a) Part 1 — on the day on which this Act receives the Royal Assent;

8

9

(b) the rest of the Act — on the day after that day.

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 In section 3(1) insert in alphabetical order:

6
7 ***AES code of practice*** means the code of practice for
8 the time being in force under section 59X;

9 ***AES customer contract*** means a contract entered into
10 between a registration holder and a small use customer,
11 or a class of small use customers, for the provision of
12 an alternative electricity service;

13 ***alternative electricity service*** means an activity
14 prescribed by the regulations as an alternative
15 electricity service;

16 ***Coordinator*** means the Coordinator of Energy referred
17 to in the *Energy Coordination Act 1994* section 4;

18 ***non-standard contract*** means a contract entered into
19 between a licensee and a small use customer, or a class
20 of small use customers, that is not a standard form
21 contract;

22 ***registration*** means a registration under Part 3A;

23 ***registration holder*** —

24 (a) means the holder of a registration; and

25 (b) includes a transferee of a registration;

26 ***small use customer*** means a customer who consumes
27 not more than 160 MWh of electricity per annum;

28 ***standard form contract*** means a contract that is
29 approved under section 51;

30

s. 5

1 **5. Section 4 amended**

2 After section 4(2) insert:

3

- 4 (3) Despite subsection (1), a licence does not authorise the
5 provision of an alternative electricity service unless the
6 holder of the licence is exempted under the regulations
7 under section 59D(2)(a) from the requirement to be
8 registered to provide the alternative electricity service.
9

10 **6. Section 7 amended**

11 (1) At the end of section 7(1) insert:

12

13 Penalty for this subsection:

- 14 (a) a fine of \$100 000;
15 (b) a daily penalty of a fine of \$5 000 for each
16 day or part of a day during which the offence
17 continues.
18

19 (2) At the end of section 7(2) insert:

20

21 Penalty for this subsection:

- 22 (a) a fine of \$100 000;
23 (b) a daily penalty of a fine of \$5 000 for each
24 day or part of a day during which the offence
25 continues.
26

27 (3) At the end of section 7(3) insert:

28

29 Penalty for this subsection:

- 30 (a) a fine of \$100 000;

1 (b) a daily penalty of a fine of \$5 000 for each
2 day or part of a day during which the offence
3 continues.
4

5 (4) At the end of section 7(4) insert:

6

7 Penalty for this subsection:

8 (a) a fine of \$100 000;

9 (b) a daily penalty of a fine of \$5 000 for each
10 day or part of a day during which the offence
11 continues.
12

13 (5) After section 7(6) insert:

14

15 (7) A person does not commit an offence under
16 subsection (1), (2), (3) or (4) if the person is —

17 (a) a registration holder and the conduct to which
18 the offence applies is authorised by that
19 registration; or

20 (b) exempted under the regulations under
21 section 59D(2)(c) from the requirement to be
22 registered in relation to the conduct to which
23 the offence applies.
24

25 (6) At the end of section 7 delete the Penalty.

26 **7. Section 8 amended**

27 In section 8(4) delete “he or she” and insert:

28

29 the Governor
30

s. 8

1 **8. Section 27 amended**

2 In section 27(1) delete “he or she” and insert:

3

4 the Minister

5

6 **9. Section 28 amended**

7 In section 28(1) and (2) delete “he or she” and insert:

8

9 the Minister

10

11 **10. Section 35 amended**

12 In section 35(1) delete “he or she” and insert:

13

14 the Governor

15

16 **11. Part 3 heading amended**

17 In the heading to Part 3 delete “**certain**” and insert:

18

19 **small use**

20

21 **12. Section 47 amended**

22 (1) In section 47 delete the definitions of:

23 *customer*

24 *non-standard contract*

25 *standard form contract*

1 (2) In section 47 in the definition of *retail licensee* delete “licence;”
2 and insert:

3

4 licence.

5

6 Note: The heading to amended section 47 is to read:

7

Term used: retail licensee

8 **13. Section 48 amended**

9 (1) In section 48(1):

10 (a) in paragraph (a) before “customers; and” insert:

11

12 small use

13

14 (b) in paragraph (b) delete “customer at his or her” and
15 insert:

16

17 small use customer at the customer’s

18

19 (c) in paragraph (e) before “customers.” insert:

20

21 small use

22

23 (2) In section 48(2)(a) and (3)(a) before “customers” insert:

24

25 small use

26

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1 **14. Part 3A inserted**

2 After section 59 insert:
3

4 **Part 3A — Registration framework for**
5 **alternative electricity services**

6 **Division 1 — Preliminary**

7 **59A. Purpose of Part**

8 The purpose of this Part is to provide a registration
9 framework —

- 10 (a) to regulate the registration of providers of
11 alternative electricity services; and
12 (b) to regulate the provision of alternative
13 electricity services to customers; and
14 (c) to provide for customer protections that are
15 relevant to the provision of alternative
16 electricity services; and
17 (d) to enable access to dispute resolution for
18 customers of providers of alternative electricity
19 services.

20 **59B. Terms used**

21 In this Part —

22 *affected person*, in relation to a reviewable decision,
23 has the meaning given in section 59U(1)(b);

24 *class*, in relation to an alternative electricity service,
25 includes sub-class;

26 *registration framework* means —

- 27 (a) this Part; and
28 (b) the regulations; and

- 1 (c) the AES code of practice;
2 **reviewable decision** has the meaning given in
3 section 59U(1)(a).

4 **59C. Alternative electricity services**

- 5 (1) The regulations may prescribe —
6 (a) an activity as an alternative electricity service;
7 or
8 (b) a class of activities as a class of alternative
9 electricity service.
- 10 (2) The regulations may regulate the provision of an
11 alternative electricity service or a class of alternative
12 electricity service to any of the following —
13 (a) small use customers or a class of small use
14 customers;
15 (b) customers or a class of customers other than
16 small use customers;
17 (c) all customers.
- 18 (3) The regulations may prescribe requirements to be
19 complied with in the provision of an alternative
20 electricity service or a class of alternative electricity
21 service.
- 22 (4) The regulations may regulate the eligibility of a person
23 or a class of persons to be granted a registration for an
24 alternative electricity service or a class of alternative
25 electricity service.
- 26 (5) Without limiting subsection (1), an activity may
27 include any of the following —
28 (a) an activity that, in the absence of an exemption
29 under section 8(1), would be required to be
30 licensed under section 7;
31 (b) an activity that relates to storage works;

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- 1 (c) an activity that relates to trading in, or
2 monitoring or managing, the production,
3 storage, consumption or use of electricity,
4 whether directly or on behalf of another person;
- 5 (d) an activity that relates to the collection,
6 retention or use of data relating to the
7 production, storage, consumption or use of
8 electricity, whether directly or on behalf of
9 another person;
- 10 (e) any other activity that relates to the production,
11 storage, transport, supply, consumption or use
12 of electricity, including —
- 13 (i) an activity provided on a metered or
14 unmetered basis; or
- 15 (ii) an activity relating to electricity
16 acquired or aggregated from 1 or more
17 sites for the purpose of trading, sale or
18 participation in the wholesale electricity
19 market; or
- 20 (iii) an activity relating to the measurement,
21 analysis, manipulation or use of data for
22 commercial purposes; or
- 23 (iv) an activity involving electricity
24 generated or stored on a site or sites
25 owned or occupied by the person
26 providing the service or otherwise; or
- 27 (v) an activity relating to electricity
28 provided through an embedded network
29 or an unlicensed distribution system or
30 by way of a stand-alone power system.
- 31 (6) For the purposes of subsection (5), an activity that
32 relates to the consumption or use of electricity may

- 1 include the consumption or use of electricity under an
2 arrangement that is —
- 3 (a) a membership scheme under which services are
4 provided to the members of the scheme on
5 payment of a membership fee and regular
6 subscriptions; or
- 7 (b) a financing, leasing, licensing or hire
8 arrangement.
- 9 (7) The regulations may provide that a class of activity is
10 not an alternative electricity service for the purposes of
11 this Act.

12 **Division 2 — Registration requirements**

13 **59D. Requirement for registration**

- 14 (1) A person must not provide an alternative electricity
15 service to a customer unless the person is registered
16 under this Part to provide that alternative electricity
17 service.
- 18 Penalty for this subsection:
- 19 (a) a fine of \$100 000;
20 (b) a daily penalty of a fine of \$5 000 for each
21 day or part of a day during which the offence
22 continues.
- 23 (2) The regulations may exempt the following from the
24 requirement under subsection (1) to be registered to
25 provide an alternative electricity service —
- 26 (a) the holder of a specified class of licence under
27 Part 2;
28 (b) the holder of an existing registration for another
29 specified alternative electricity service;
30 (c) any other person prescribed by the regulations.

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- 1 (3) A regulation under subsection (2) may provide for
2 circumstances in which, and conditions subject to
3 which, an exemption is to apply.
- 4 (4) If the holder of a licence is exempted under the
5 regulations under subsection (2)(a) from the
6 requirement to be registered to provide an alternative
7 electricity service, the Authority may determine terms
8 and conditions under section 11(1) to apply to the
9 licence in relation to the provision of the alternative
10 electricity service to which the exemption applies.
- 11 (5) If the holder of a registration for an alternative
12 electricity service is exempted under the regulations
13 under subsection (2)(b) from the requirement to be
14 registered to provide another alternative electricity
15 service, the Authority may determine terms and
16 conditions under section 59O(3) to apply to the
17 registration in relation to the provision of the
18 alternative electricity service to which the exemption
19 applies.
- 20 **59E. Registration holder to comply with terms and**
21 **conditions of registration**
- 22 A registration holder must comply with the terms and
23 conditions applying to the registration.
- 24 Penalty:
- 25 (a) a fine of \$100 000;
- 26 (b) daily penalty of a fine of \$5 000 for each day
27 or part of a day during which the offence
28 continues.

1 **Division 3 — General registration provisions**

2 **59F. Authority to consider public interest**

- 3 (1) The Authority must not exercise a power conferred by
4 this Division or Division 2 unless the Authority is
5 satisfied that it would not be contrary to the public
6 interest to do so.
- 7 (2) Without limiting the other matters that may be taken
8 into account, the Authority, in determining whether the
9 exercise of the power would not be contrary to the
10 public interest, must take into account the following —
- 11 (a) environmental considerations;
 - 12 (b) social welfare and equity considerations,
13 including community service obligations;
 - 14 (c) economic and regional development, including
15 employment and investment growth;
 - 16 (d) the interests of customers generally or of a class
17 of customers;
 - 18 (e) the interests of any registration holder or
19 applicant for registration who may be affected
20 by the exercise of the power;
 - 21 (f) the importance of competition in electricity
22 industry markets;
 - 23 (g) the policy objectives of government in relation
24 to the supply of electricity.
- 25 (3) The Authority is not required to comply with
26 subsection (1) and the *Economic Regulation Authority*
27 *Act 2003* section 26(1)(a) in the circumstances
28 prescribed in the regulations.

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1 **59G. Application for registration**

2 An application for registration must be —

- 3 (a) made in a form approved by the Authority; and
4 (b) accompanied by the prescribed application fee.

5 **59H. Renewal of registration**

6 An application for the renewal of a registration must
7 be —

- 8 (a) made in a form approved by the Authority; and
9 (b) accompanied by the prescribed application fee.

10 **59I. Amendment of registration**

11 An application for an amendment to a registration must
12 be —

- 13 (a) made in a form approved by the Authority; and
14 (b) accompanied by the prescribed application fee.

15 **59J. Transfer of registration**

- 16 (1) A registration cannot be transferred except with the
17 approval of the Authority.
18 (2) An approval may be given on the terms and conditions
19 determined by the Authority.
20 (3) An application for approval to transfer a registration
21 must be —
22 (a) made in a form approved by the Authority; and
23 (b) accompanied by the prescribed application fee.

24 **59K. Further information**

25 An applicant for registration, renewal or amendment of
26 registration or approval of the transfer or surrender of
27 registration must provide any additional information

1 that the Authority may reasonably require for the
2 proper consideration of the application.

3 **59L. Public consultation on grant, renewal, amendment**
4 **or transfer of registration**

- 5 (1) The Authority must ensure that public consultation is
6 carried out in accordance with the regulations before
7 the Authority —
- 8 (a) grants a registration; or
 - 9 (b) renews a registration; or
 - 10 (c) amends a registration; or
 - 11 (d) approves the transfer of a registration.
- 12 (2) The regulations may exempt an alternative electricity
13 service or a class of alternative electricity service from
14 the requirements of subsection (1).
- 15 (3) Subsection (1)(c) does not apply if the amendment is of
16 a minor or administrative nature.

17 **59M. Decision to grant, renew, amend or approve**
18 **transfer of registration**

- 19 (1) The Authority must take all reasonable steps to decide
20 an application for the following within 90 days after
21 the application is made —
- 22 (a) the grant, renewal or amendment of a
23 registration;
 - 24 (b) approval to transfer a registration.
- 25 (2) The duties imposed on the Authority by subsection (1)
26 apply only if —
- 27 (a) the application has been made in accordance
28 with section 59G, 59H, 59I or 59J, as the case
29 may be; and

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- 1 (b) section 101B does not prohibit the grant,
2 renewal or amendment of the registration or the
3 approval of the transfer; and
4 (c) if a requirement has been made under
5 section 59K, the relevant information has been
6 provided to the Authority.

7 **59N. Registration area**

- 8 (1) A registration must be designated to apply to 1 or more
9 areas of the State specified in the registration.
10 (2) If 2 or more areas are specified in a registration those
11 areas need not be contiguous.

12 **59O. Registration is subject to terms and conditions**

- 13 (1) A registration is subject to a condition that the
14 registration holder must comply with the provisions of
15 the AES code of practice that are prescribed by the
16 regulations to apply to the alternative electricity service
17 or class of alternative electricity service to which the
18 registration applies.
19 (2) A registration is subject to a condition that the
20 registration holder must notify the Authority of any
21 change of circumstances that may materially affect the
22 registration holder's ability to meet their obligations
23 under this Act.
24 (3) A registration is subject to any other terms and
25 conditions that are determined by the Authority or
26 prescribed by this Act or the regulations.
27 (4) The Authority may at any time amend the terms and
28 conditions of a registration determined by the
29 Authority.

- 1 (5) The regulations may prescribe terms and conditions of
2 registration for —
3 (a) an alternative electricity service; or
4 (b) a class of alternative electricity service.

5 **59P. Duration of registration**

6 The Authority may grant or renew a registration for
7 any period not exceeding 15 years that the Authority
8 considers appropriate.

9 **59Q. Annual fees**

- 10 (1) A registration holder must pay the prescribed annual
11 fee to the Authority within a period determined by the
12 Authority.
13 (2) The Authority may recover any outstanding annual fee
14 in a court of competent jurisdiction as a debt due by the
15 registration holder to the State.

16 **59R. Surrender of registration**

- 17 (1) A registration holder must not surrender a registration
18 unless the Authority on the application of the
19 registration holder has approved the surrender.
20 (2) An application for approval to surrender a registration
21 must be —
22 (a) made in a form approved by the Authority; and
23 (b) accompanied by the prescribed application fee.
24 (3) The Authority must not approve a surrender of a
25 registration unless the Authority is satisfied that it
26 would not be contrary to the public interest to do so.

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1 **59S. Other laws not affected**

2 The grant, renewal or amendment of a registration or
3 the approval of the transfer or surrender of a
4 registration does not affect the registration holder's
5 obligations to comply with any other written law in
6 relation to the matters covered by the registration.

7 **59T. Notice of decision**

8 (1) The Authority must ensure that written notice of each
9 of the following decisions is given to the applicant
10 within 14 days after the decision is made —

- 11 (a) a decision to grant a registration;
- 12 (b) a decision to renew a registration;
- 13 (c) a decision to amend a registration;
- 14 (d) a decision to approve the transfer of a
15 registration;
- 16 (e) a decision to approve the surrender of a
17 registration.

18 (2) The Authority must ensure that written notice of each
19 of the following decisions and a statement of the
20 reasons for the decision is given to the applicant within
21 14 days after the decision is made —

- 22 (a) a decision to refuse to grant a registration;
- 23 (b) a decision to refuse to renew a registration;
- 24 (c) a decision to refuse to amend a registration;
- 25 (d) a decision to refuse to approve the transfer of a
26 registration;
- 27 (e) a decision to refuse to approve the surrender of
28 a registration.

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Item	Reviewable decision	Affected person
6.	A decision by the Authority as to the period of registration or renewal of registration under section 59P	The registration holder
7.	A decision of the Authority under section 59R to refuse to approve the surrender of a registration	The applicant for approval

- 1 (2) An affected person who is aggrieved by a reviewable
2 decision may apply to the State Administrative
3 Tribunal for a review of the decision.
- 4 (3) The application must be made within 28 days after the
5 day on which notice of the reviewable decision is
6 given.

7 **59V. Register**

- 8 (1) The Authority must publish a register in accordance
9 with this section of any of the following —
- 10 (a) an application for registration;
11 (b) a grant or renewal of registration;
12 (c) an amendment of registration;
13 (d) an approval of a transfer of registration;
14 (e) a refusal of an application for registration or a
15 renewal or amendment of registration;
16 (f) a surrender of registration;
17 (g) a suspension or revocation of registration.
- 18 (2) The register must be published on the Authority's
19 website and made available for members of the public
20 to inspect free of charge.

- 1 (3) If an application for registration is refused, the
2 Authority may include in the register any details
3 relating to that refusal that the Authority thinks fit.
- 4 (4) The Authority must publish each of the following
5 decisions on the register within 14 days after the
6 decision is made —
- 7 (a) a decision to grant a registration;
8 (b) a decision to refuse to grant a registration;
9 (c) a decision to renew a registration;
10 (d) a decision to refuse to renew a registration;
11 (e) a decision to amend a registration;
12 (f) a decision to refuse to amend a registration;
13 (g) a decision to approve a transfer of registration;
14 (h) a decision to refuse to approve a transfer of
15 registration;
16 (i) a decision to approve a surrender of
17 registration;
18 (j) a decision to refuse to approve a surrender of
19 registration.
- 20 (5) If a registration is granted, the register must include —
- 21 (a) the name and street address of the registration
22 holder; and
23 (b) the name and contact details of the person who
24 will handle customer requests for information
25 and complaints; and
26 (c) the alternative electricity service for which the
27 registration is granted; and
28 (d) the dates of the grant or renewal, or approval of
29 the transfer, of the registration; and
30 (e) the term of the registration; and
31 (f) a description of the registration area; and

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- 1 (g) the date of any surrender of the registration;
2 and
3 (h) the date, if any, of the suspension or revocation
4 of the registration; and
5 (i) any other matter prescribed in the regulations in
6 relation to an alternative electricity service or a
7 class of alternative electricity service.

8 **59W. Fee regulations**

9 The regulations may do all or any of the following —

- 10 (a) prescribe different application fees and annual
11 fees for different alternative electricity services
12 or different classes of alternative electricity
13 service;
14 (b) specify the amount of a fee or provide for a fee
15 to be calculated in accordance with a specified
16 method or formula;
17 (c) specify circumstances in which the payment of
18 some or all of a fee may be waived.

19 **Division 4 — AES code of practice**

20 **59X. AES code of practice**

- 21 (1) The Minister may prepare and issue a code of practice
22 for alternative electricity services.
23 (2) The AES code of practice must set out customer
24 protection requirements to be complied with by
25 registration holders.
26 (3) Without limiting subsection (2), the AES code of
27 practice may include requirements relating to any 1 or
28 more of the following —
29 (a) standards of conduct in the supply and
30 marketing of electricity or electricity services to

- 1 small use customers, including in relation to the
2 following —
- 3 (i) the information to be contained in AES
4 customer contracts;
 - 5 (ii) the ongoing provision of information to
6 small use customers;
 - 7 (iii) the obtaining of the consent of a small
8 use customer before entering into an
9 AES customer contract or amending an
10 AES customer contract (other than an
11 amendment required to comply with a
12 written law);
 - 13 (iv) the methods or principles to be applied
14 by registration holders in the
15 preparation of accounts for small use
16 customers;
 - 17 (v) matters relating to bills for small use
18 customers, including matters relating to
19 the information to be provided on bills,
20 how payments are to be made, the
21 frequency of bills and the arrangements
22 to be made for small use customers
23 experiencing payment difficulties or
24 financial hardship;
 - 25 (vi) the use of and access to electricity for
26 life support equipment;
 - 27 (vii) customer protection for persons
28 experiencing family violence;
- 29 (b) the regulation of pricing and price controls for
30 the sale or supply of electricity or electricity
31 services by registration holders to small use
32 customers or the supply of electricity by a small
33 use customer to a registration holder;

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- 1 (c) the facilitation of access, at reasonable
2 associated cost to the customer, to electricity or
3 electricity services provided by other providers;
- 4 (d) the facilitation of access to electricity sources
5 with low or zero greenhouse gas emissions;
- 6 (e) the metering of the supply of electricity,
7 including —
- 8 (i) the provision, operation and
9 maintenance of metering equipment;
10 and
- 11 (ii) the ownership of and access to meters
12 and metering data;
- 13 (f) technical requirements, including quality and
14 reliability standards;
- 15 (g) requirements for asset management systems;
- 16 (h) internal and external complaints handling and
17 dispute resolution processes for small use
18 customers;
- 19 (i) the continuity of supply of electricity to small
20 use customers of a registration holder that
21 ceases to provide an alternative electricity
22 service for which it is registered;
- 23 (j) the disconnection, suspension and interruption
24 and restoration of an alternative electricity
25 service in relation to a small use customer.
- 26 (4) The AES code of practice may incorporate or apply
27 with or without changes any provision of a code or
28 standard issued and in force from time to time under
29 section 39.

30 **59Y. AES code of practice is subsidiary legislation**

- 31 (1) The AES code of practice is subsidiary legislation for
32 the purposes of the *Interpretation Act 1984*.

- 1 (2) A provision of the AES code of practice is of no effect
2 to the extent that it is inconsistent with a provision of
3 this Act or another written law.

4 **59Z. Public consultation on issue, amendment or**
5 **replacement of AES code of practice**

- 6 (1) The Minister must ensure that public consultation is
7 carried out in accordance with the regulations before
8 the Minister exercises the power to —
9 (a) issue the AES code of practice; or
10 (b) amend the AES code of practice; or
11 (c) repeal and replace the AES code of practice.
- 12 (2) Subsection (1) does not apply to an amendment to the
13 AES code of practice if the Minister is satisfied that the
14 amendment is of a minor nature.
- 15 (3) Despite subsection (1), the public consultation before
16 the issue of the initial AES code of practice may be
17 carried out in the manner determined by the Minister.

18 **59ZA. Notice to registration holders of amendment or**
19 **replacement of AES code of practice**

20 The Authority must notify all registration holders of
21 the amendment or replacement of the AES code of
22 practice.

23 **59ZB. Review of AES code of practice**

- 24 (1) The Minister must cause a review of the AES code of
25 practice to be carried out as soon as is practicable
26 after —
27 (a) the 5th anniversary of its commencement; and
28 (b) the expiry of each 5 yearly interval after that
29 anniversary.

s. 14

- 1 (2) The Minister may cause an earlier review of the AES
2 code of practice to be carried out if the Minister
3 considers it necessary.
- 4 (3) The purpose of a review is to assess the suitability of
5 the provisions of the AES code of practice to achieve
6 the purpose of this Part.
- 7 (4) The Minister may, by instrument, delegate any power
8 or function under this section or section 59ZC to the
9 Authority.

10 **59ZC. Public consultation on review**

11 The Minister must ensure that public consultation is
12 carried out in accordance with the regulations when a
13 review of the AES code of practice is carried out.

14 **Division 5 — Functions of Authority**

15 **59ZD. Functions of Authority**

- 16 (1) The Authority is responsible for administering and
17 enforcing the registration framework.
- 18 (2) Without limiting subsection (1), the Authority is
19 responsible for —
- 20 (a) monitoring and reporting to the Minister on
21 request on —
- 22 (i) the operation of the registration
23 framework; and
- 24 (ii) compliance by registration holders with
25 the terms and conditions of registration;
- 26 and
- 27 (b) reporting to the Minister on request on the
28 enforcement of the registration framework.

1 **59ZE. Annual report**

- 2 (1) The Authority must prepare and provide to the Minister
3 an annual report on the registration framework.
- 4 (2) The annual report —
- 5 (a) must detail the performance and compliance of
6 registration holders with the registration
7 framework; and
- 8 (b) may identify improvements that may be made
9 to the operation of the registration framework.
- 10 (3) The Authority must publish each annual report on the
11 Authority’s website.

12 **Division 6 — Performance reporting and compliance**
13 **monitoring**

14 **59ZF. Requirement to provide information or report to**
15 **Authority**

- 16 (1) A registration is subject to a condition that the
17 registration holder must provide to the Authority any
18 information or report that the Authority considers
19 reasonable for the Authority to carry out its
20 responsibility to administer and enforce the registration
21 framework.
- 22 (2) The information or report must be provided in a
23 manner and form, and at a frequency, determined by
24 the Authority.

25 **59ZG. Compliance audit**

- 26 (1) The Authority may appoint a person to audit the
27 compliance of a registration holder with the registration
28 framework and the terms and conditions of registration.
- 29 (2) The audit must be carried out in accordance with the
30 process determined by the Authority.

s. 14

- 1 (3) The registration holder, at the request of the auditor,
2 must provide the auditor with any information
3 reasonably required for the audit.
- 4 (4) The Authority —
- 5 (a) may recover from the registration holder its
6 reasonable costs and expenses arising from the
7 appointment and remuneration of an auditor
8 appointed under subsection (1); and
- 9 (b) may seek an order for the recovery of those
10 costs and expenses in a court of competent
11 jurisdiction.

12 **59ZH. Use and disclosure of information**

- 13 (1) The Authority may use and disclose any information or
14 report provided to the Authority under this Part to carry
15 out its responsibility to administer and enforce the
16 registration framework.
- 17 (2) The Authority may disclose information relating to the
18 registration framework to the Coordinator, on request.
- 19 (3) The regulations may provide for the use and disclosure
20 of confidential information.
- 21 (4) The Authority must comply with the regulations when
22 using or disclosing confidential information.

23 **Division 7— Enforcement**

24 **59ZI. Failure to comply with registration**

- 25 (1) If, in the opinion of the Authority, a registration holder
26 contravenes a term or condition of registration, the
27 Authority may cause a notice to be served on the
28 registration holder requiring the registration holder to
29 rectify the contravention within a specified period.

- 1 (2) If, in the opinion of the Authority, a registration holder
2 fails to comply with a notice under subsection (1), the
3 Authority may, subject to section 59ZJ, do 1 or more of
4 the following —
- 5 (a) accept a written undertaking from the
6 registration holder under which the registration
7 holder undertakes to rectify the contravention;
- 8 (b) require the registration holder to give public
9 notice of the contravention in the manner
10 determined by the Authority;
- 11 (c) order the registration holder to pay a monetary
12 penalty fixed by the Authority but not
13 exceeding \$100 000;
- 14 (d) cause the contravention to be rectified to the
15 satisfaction of the Authority;
- 16 (e) revoke or suspend the registration of the
17 registration holder.
- 18 (3) The registration holder is liable to pay to the Authority
19 the costs and expenses incurred in taking any action
20 under subsection (2)(d).

21 **59ZJ. Right of registration holder to make submissions**

- 22 (1) Subject to section 59ZP(3), the Authority must not take
23 any action under section 59ZI(2)(b) to (e) unless the
24 Authority has notified the registration holder —
- 25 (a) of the proposed action and the reasons for it;
26 and
- 27 (b) that the registration holder may within the
28 period specified in the notice show cause why
29 the action should not be taken.
- 30 (2) The Authority must consider any response of the
31 registration holder given within the period specified in
32 the notice.

s. 14

1 (3) The Authority must make its decision within
2 30 business days after the end of the period specified in
3 the notice.

4 (4) The Authority must notify the registration holder of its
5 decision.

6 **59ZK. Power to enter premises to rectify contravention**

7 Persons authorised by the Authority in writing may
8 enter any premises and do all things that are necessary
9 for the purposes of section 59ZI(2)(d).

10 **59ZL. Recovery of penalty, costs and expenses**

11 The Authority may recover the following in a court of
12 competent jurisdiction as a debt due by the registration
13 holder to the State —

- 14 (a) a penalty imposed under section 59ZI(2)(c);
15 (b) the costs and expenses of any action taken
16 under section 59ZI(2)(d).

17 **59ZM. Enforceable undertakings**

18 (1) This section applies if the Authority accepts an
19 undertaking under section 59ZI(2)(a).

20 (2) The registration holder may, with the consent of the
21 Authority, withdraw or amend an undertaking.

22 (3) The Authority may withdraw its acceptance of an
23 undertaking at any time and the undertaking ceases to
24 be in force on that withdrawal.

25 (4) The Authority may publish on the Authority's website
26 an undertaking accepted under section 59ZI(2)(a).

1 **59ZN. Certain actions prohibited while undertaking is in**
2 **force**

3 While an undertaking is in force under
4 section 59ZI(2)(a), the Authority must not take an
5 action under section 59ZI(2)(b) to (e) in relation to a
6 matter that is covered by the undertaking.

7 **59ZO. Certain actions prohibited if undertaking is**
8 **complied with**

9 If a registration holder complies with the requirements
10 of an undertaking under section 59ZI(2)(a), the
11 Authority must not take an action under
12 section 59ZI(2)(b) to (e) in relation to a matter that is
13 covered by the undertaking.

14 **59ZP. Failure to comply with enforceable undertakings**

- 15 (1) If the Authority considers that a registration holder
16 who gave an undertaking under section 59ZI(2)(a) has
17 failed to comply with any of its terms, the Authority
18 may apply to a court of competent jurisdiction for an
19 order under subsection (2) to enforce the undertaking.
- 20 (2) If the court is satisfied that the registration holder has
21 failed to comply with a term of the undertaking, the
22 court may make any of the following orders —
- 23 (a) an order directing the registration holder to
24 comply with the term of the undertaking;
- 25 (b) an order that the registration holder take any
26 specified action for the purpose of complying
27 with the term of the undertaking;
- 28 (c) any other order that the court considers
29 appropriate in the circumstances.

s. 15

- 1 (3) If the court determines that a registration holder has
2 failed to comply with a term of an undertaking under
3 section 59ZI(2)(a), the Authority may without further
4 notice take 1 or more actions under section 59ZI(2)(b)
5 to (e) in relation to a matter that is covered by the term
6 of the undertaking.
7

8 **15. Section 60 amended**

9 In section 60 delete the definition of *Coordinator*.

10 **16. Section 78 amended**

11 In section 78 delete the definition of *customer*.

12 **17. Section 90 amended**

13 (1) In section 90 delete the definition of *customer contract*.

14 (2) In section 90 insert in alphabetical order:
15

16 *customer contract* means —

- 17 (a) a standard form contract; or
18 (b) a non-standard contract; or
19 (c) an AES customer contract;
20

21 (3) In section 90 in the definition of *customer* delete paragraph (a)
22 and insert:
23

- 24 (a) a small use customer; and
25

1 **18. Section 92 amended**

2 In section 92(1):

3 (a) in paragraph (a) delete “contracts; and” and insert:

4

5 contracts or the AES code of practice; and

6

7 (b) after paragraph (b)(i) insert:

8

9 (ia) customers and registration holders; or

10

11 (c) after paragraph (c)(i) insert:

12

13 (ia) registration holders; or

14

15 **19. Section 96 amended**

16 In section 96(2)(b) delete “his or her” and insert:

17

18 the electricity ombudsman’s

19

20 **20. Section 97 amended**

21 In section 97(2) delete “licensee” and insert:

22

23 licensee, a registration holder

24

s. 21

1 **21. Part 7 Division 5 inserted**

2 At the end of Part 7 insert:

3

4 **Division 5 — Membership of approved scheme by**
5 **registration holder**

6 **101A. Proof of membership in applications relating to**
7 **registration**

- 8 (1) An applicant for the grant of a registration of an
9 alternative electricity service who proposes to provide
10 the alternative electricity service to a customer must
11 produce with the application evidence showing that the
12 applicant will, if the registration is granted, be a
13 member of an approved scheme.
- 14 (2) An applicant for the renewal of a registration of an
15 alternative electricity service who provides the
16 alternative electricity service to customers must
17 produce with the application evidence showing that the
18 applicant will, if the registration is renewed, continue
19 to be a member of an approved scheme.
- 20 (3) If an application is made under section 59J for approval
21 to transfer a registration of an alternative electricity
22 service to a person who proposes to provide the
23 alternative electricity service to customers, the
24 proposed transferee must produce with the application
25 evidence showing that the proposed transferee will, if
26 the transfer is approved, be a member of an approved
27 scheme.

1 **101B. Prerequisite to grant, renewal, amendment or**
2 **transfer of registration**

3 Despite Part 3A Division 3, the Authority must not
4 grant, renew or amend a registration or approve a
5 transfer of a registration of an alternative electricity
6 service to a person who provides or proposes to
7 provide the alternative electricity service to customers
8 unless it is satisfied that the registration holder, or the
9 proposed transferee —

- 10 (a) is a member of an approved scheme; or
11 (b) will, if the registration is granted, renewed or
12 amended or the transfer is approved, be a
13 member of an approved scheme.

14 **101C. Registration condition: membership of scheme**

15 It is a condition of registration of an alternative
16 electricity service that the registration holder must not
17 provide the alternative electricity service to customers
18 unless the registration holder —

- 19 (a) is a member of an approved scheme; and
20 (b) is bound by and complies with any decision or
21 direction of the electricity ombudsman under
22 the scheme.
23

24 **22. Schedule 2 clause 1 amended**

25 In Schedule 2 clause 1:

- 26 (a) in paragraph (a) after “licensees” insert:
27
28 or registration holders
29

s. 22

- 1 (b) in paragraph (b) after “licensees” insert:
2
3 and registration holders
4
- 5 (c) in paragraph (d) delete “in performing his or her” and
6 insert:
7
8 or registration holders in performing the electricity
9 ombudsman’s
10
- 11 (d) in paragraph (l) delete “of substantial breaches of —” and
12 insert:
13
14 if the electricity ombudsman becomes aware of substantial
15 breaches of any of the following —
16
- 17 (e) in paragraph (l)(i) delete “condition; or” and insert:
18
19 condition;
20
- 21 (f) after paragraph (l)(i) insert:
22
23 (ia) any registration condition;
24 (ib) the AES code of practice;
25
- 26 (g) in paragraph (l)(ii) delete “Part 6,” and insert:
27
28 Part 6.
29
- 30 (h) in paragraph (l) delete “of which the ombudsman becomes
31 aware.”

1 **23. Various references to “customer” amended**

2 In the provisions listed in the Table:

3 (a) delete “customer” (each occurrence) and insert:

4
5 small use customer

6
7 (b) delete “customers” (each occurrence) and insert:

8
9 small use customers

10

11

Table

s. 49(1), (2) and (3)	s. 50(1)(b) and (2)
s. 54(1)	s. 54A(1) def. of <i>relevant contract</i> par. (a) and (b)
s. 54A(2), (3) and (4)(b)	s. 57 def. of <i>premises</i>
s. 59(d)	s. 78 def. of <i>electricity marketing agent</i>
s. 78 def. of <i>marketing</i>	s. 79(2)(c) and (d)
s. 89A(a), (b), (c) and (d)	

1 **Part 3 — Consequential amendments to *Electricity***
2 ***Act 1945***

3 **24. Act amended**

4 This Part amends the *Electricity Act 1945*.

5 **25. Section 5 amended**

6 (1) In section 5(1) insert in alphabetical order:

7
8 *AES registration holder* means a registration holder as
9 defined in the *Electricity Industry Act 2004*
10 section 3(1);

11 *alternative electricity service* has the meaning given in
12 the *Electricity Industry Act 2004* section 3(1);

13 *exempt AES provider* means a person who is
14 authorised under the *Electricity Industry Act 2004* to
15 provide an alternative electricity service without
16 holding a registration under that Act;
17

18 (2) In section 5(1) in the definition of *network operator*:

19 (a) in paragraph (c) delete “operator;” and insert:

20
21 operator; or
22

23 (b) after paragraph (c) insert:

24
25 (d) is in a class of AES registration holders
26 prescribed by regulation; or

27 (e) is in a class of exempt AES providers
28 prescribed by regulation;
29