

## Electricity Supply Amendment Bill 2005

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The object of this Bill is to amend the *Electricity Supply Act 1995* (the **Principal Act**) for the following purposes:

- (a) to clarify the operation of provisions relating to the imposition of endorsements on the licences of retail suppliers of electricity,
- (b) to clarify the power of the Independent Pricing and Regulatory Tribunal (**IPART**) to audit and enforce compliance with endorsements attached to licences,
- (c) to require electricity distributors and suppliers to comply with any notice from IPART requiring them to keep specified records or to furnish specified information,
- (d) to extend to related entities of large customers (including joint venture partners) the capacity to elect to be a benchmark participant and to be subject to greenhouse gas benchmark obligations,
- (e) to enable abatement certificates created for the purposes of the greenhouse gas benchmark scheme to be surrendered at any time by their owners,
- (f) to enable the Minister to require information to be provided by the National Electricity Market Management Company Limited (**NEMMCO**) in connection with possible retailer of last resort arrangements and for other purposes,
- (g) to establish a regulation-making power for electricity prepayment meters for small retail customers,
- (h) to clarify the boundary of the electricity distribution system,
- (i) to make other minor and consequential amendments.

The Bill also makes a consequential amendment to the *Independent Pricing and Regulatory Tribunal Act 1992*.

### Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Electricity Supply Act 1995* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendment to the *Independent Pricing and Regulatory Tribunal Act 1992* set out in Schedule 2.

### **Schedule 1 Amendment of Electricity Supply Act 1995**

#### **Endorsements on retail supplier licences**

Section 33A of the Principal Act provides for endorsements to be attached to the licence of a retail supplier of electricity. The section specifies the endorsement category of standard retail supplier and enables other categories of endorsement to be determined by the Minister.

**Schedule 1 [1]** amends section 33A of the Principal Act to make it clear that endorsements attached to retail suppliers' licences are to be attached by the Minister.

**Schedule 1 [2]** amends section 33A of the Principal Act to make it clear that endorsements may be attached to a licence when the licence is granted or at any later time and may be removed at any time. Conditions of an endorsement imposed by the Minister may be varied or revoked by the Minister at any time.

#### **Audit and enforcement of endorsements attached to licences**

Section 77 of the Principal Act sets out the regulatory functions of IPART under the Principal Act and the matters that IPART is required to make recommendations to

the Minister about. Section 87 of the Principal Act requires IPART to monitor, and report to the Minister on, the extent to which distribution network service providers and retail suppliers comply, or fail to comply, with the conditions imposed on the licences held by them.

**Schedule 1 [3], [4] and [5]** amend section 77 of the Principal Act to make it clear that IPART has the function of making recommendations to the Minister with respect to the imposition, variation or cancellation of endorsements attached to a licence, the action to be taken, and the sanctions to be applied, in respect of a contravention of an endorsement attached to a licence and any remedial action that may be warranted as a result of a contravention of an endorsement attached to a licence.

**Schedule 1 [6] and [7]** amend section 87 of the Principal Act to ensure that IPART's licence auditing functions under that section extend to the endorsements attached to licences.

**Schedule 1 [8]** amends section 87B of the Principal Act to allow IPART to direct a licence holder to keep specified records, including any documents specified by IPART, and to furnish specified information for the purposes of section 87 of the Principal Act.

**Schedule 1 [9], [19] and [20]** make consequential amendments.

#### **Benchmark participants**

The Principal Act provides for certain customers of electricity to be able to elect to participate in the greenhouse gas benchmark scheme established under the Act. One category of customers who may do so is large customers who use the specified amount of electricity at one or more sites and who are within the circumstances specified in the regulations.

**Schedule 1 [10]** extends the definition of *large customer* contained in section 97AB of the Principal Act for these purposes to groups of customers who are related entities who together use the required amount of electricity and to related entities of such customers (whether or not themselves customers).

**Schedule 1 [11]** defines a *related entity* of a customer as meaning a person (whether or not a customer) that is a related body corporate, is a beneficiary of a trust for which the customer is or was a trustee, is a trustee of a trust under which a related entity of the customer is a beneficiary or is a joint venture partner of the customer.

**Schedule 1 [12]** enables regulations to be made under section 97BB of the Principal Act to provide for the circumstances when a related entity of a customer is entitled to make an election to be a large customer benchmark participant subject to a greenhouse gas benchmark and when a person is taken to be engaging in a joint venture with a customer or a related entity of a customer. Regulations may also be made for the purpose of applying part of the principles for determining greenhouse gas benchmarks to related entities of large customers and large customers who do not purchase electricity, or the requisite quantity of electricity, in their own right.

#### **Surrender of abatement certificates**

The Principal Act provides for the creation and use of abatement certificates for the purpose of enabling greenhouse gas benchmark participants to meet their obligations to abate greenhouse gas emissions in each year. Currently, the Act only provides for those certificates to be surrendered by participants seeking to comply with those obligations.

**Schedule 1 [15]** amends section 97EE of the Principal Act to enable a person registered as the owner of an abatement certificate to surrender that certificate at any time by notice in writing to the Scheme Administrator and provides for cancellation of that certificate on acceptance of the surrender by the Scheme Administrator.

**Schedule 1 [13] and [14]** make consequential amendments.

#### **Provision of information to Minister**

Currently, NEMMCO may not provide information obtained in its role under the National Electricity Code without express authority to do so. The Code permits

information to be provided if it is authorised under another law.

**Schedule 1 [16]** inserts proposed section 105A into the Principal Act. The proposed section enables the Minister, by notice in writing, to require NEMMCO to provide the information specified in the notice. The Minister will be able to require information about action being taken, or proposed, against retail suppliers or other entities and other information required in connection with possible retailer of last resort arrangements. **Schedule 1 [22]** makes a consequential amendment.

#### **Regulation-making power for prepayment meters**

**Schedule 1 [18]** amends section 106 of the Principal Act to enable regulations permitting electricity prepayment meters for small retail customers and making requirements in relation to any such prepayment meters.

#### **Boundaries of distribution systems**

The distribution system is that part of the electricity supply system for which a distribution network service provider has responsibility. Currently it is defined as the power lines, equipment and structures that convey and control the conveyance of electricity to the premises of wholesale and retail customers. Some doubt has arisen as to whether the distribution system must end at the land or building to which the electricity is supplied.

**Schedule 1 [21]** inserts a new definition of *distribution system* for the purposes of the Principal Act. The definition provides for the distribution system to end at the point of supply for the premises concerned and makes it clear that the point of supply may or may not be situated on the building or land comprising the premises being supplied.

**Schedule 1 [22]** inserts a definition of *point of supply* for the purposes of the Principal Act. The point of supply for particular premises is to be determined in accordance with the regulations. **Schedule 1 [17]** enables regulations to be made under section 106 of the Principal Act with respect to requirements for the marking or labelling of the point of supply in relation to the premises of wholesale or retail customers.

#### **Schedule 2 Amendment of Independent Pricing and Regulatory Tribunal Act 1992**

**Schedule 2** makes an amendment to the *Independent Pricing and Regulatory Tribunal Act 1992* consequential on the amendments to the Principal Act relating to the audit and enforcement of endorsements attached to licences.