



New South Wales

Energy Legislation Amendment (Retail Price Deregulation) Bill 2014

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to modify the operation of the *National Energy Retail Law (NSW)* (the *National Law*) so that the mandatory scheme requiring energy retailers to offer energy at a regulated price to certain small customers no longer applies in relation to the supply of electricity to those customers and to provide for transitional contract arrangements for those customers,
- (b) to provide for the monitoring of the performance and competitiveness of the retail electricity market for small customers in New South Wales,
- (c) to amend the *Electricity Supply Act 1995* and the *Electricity Supply (General) Regulation 2001* to update references and remove provisions as a consequence of the deregulation of retail electricity prices,
- (d) to provide for gas pricing order provisions to be retained and revived in the *Gas Supply Act 1996*.

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 (except Schedule 5) on 1 July 2014 or the date of assent to the proposed Act, whichever is the later, and for proposed Schedule 5 to commence on the date of assent to the proposed Act.

Schedule 1 Amendment of National Energy Retail Law (Adoption) Act 2012 No 37

Schedule 1 [1] modifies the National Law so that provisions relating to regulated offer prices and contracts will apply only to the supply of gas rather than to both gas and electricity. **Schedule 1 [2]–[6] and [8]** make consequential amendments.

Schedule 1 [7] omits a modification to the National Law that requires pricing conditions relating to regulated offer prices to be imposed on persons exempted from licensing requirements for the retail sale of electricity.

Schedule 1 [9] modifies the National Law by inserting proposed Part 9A. The proposed Part establishes a Market Monitor (to be prescribed by regulations) to monitor the performance and competitiveness of the retail electricity market in New South Wales for small customers and to report annually on it. The annual report is to include any steps necessary to improve the competitiveness of the market, whether there is a need for a detailed review of retail prices and profit margins in the market, the participation of small customers in the market, barriers in the market, competition between retailers and other matters. The annual report is to be tabled in Parliament. The Market Monitor must carry out a detailed review of retail prices and profit margins in the market, and other matters, (a *special review*) if requested to do so by the Minister. Regulations may be made with respect to reports by the Market Monitor, conferring functions on the Market Monitor that are related or ancillary to its review, reporting and monitoring functions and the conduct of special reviews. Regulations may also apply provisions of the *Independent Pricing and Regulatory Tribunal Act 1992* while the Independent Pricing and Regulatory Tribunal is prescribed as the Market Monitor.

Schedule 2 Amendment of National Energy Retail Law (Adoption) Regulation 2013

Schedule 2 [1] omits the prescription of the consumption threshold for electricity for a regulated offer customer as a consequence of the removal of the application of regulated offer provisions to electricity customers. **Schedule 2 [2]** makes a consequential amendment.

Schedule 2 [3] omits a provision that specifies retailers as regulated offer retailers for electricity customers as a consequence of the removal of the application of regulated offer provisions to electricity customers.

Schedule 2 [4] prescribes the Independent Pricing and Regulatory Tribunal as the Market Monitor for the purposes of proposed Part 9A of the National Law and provides for the conduct of special reviews by the Market Monitor. It also enables the Market Monitor to require information to be provided for the purposes of a special review and protects certain confidential information that is provided. It will be an offence to refuse or fail to comply with a notice to provide information, to knowingly provide false information or give false evidence or to obstruct or interfere with the exercise of functions for the purposes of a special review.

Schedule 2 [5]–[7] update references.

Schedule 2 [8] inserts transitional provisions relating to the modifications to the regulated offer provisions of the National Law made by the proposed Act. A regulated offer customer for the supply of electricity will become a standing offer customer of the designated retailer for the customer on the terms and conditions (including standing offer prices) available on a standing offer contract between a small customer and the designated retailer.

Schedule 3 Amendment of Electricity Supply Act 1995 No 94

Schedule 3 [1]–[4], [19], [21] and [23] change references to certain customers who participate in the solar bonus scheme so as to reflect the removal of the category of regulated offer customers from the National Law. **Schedule 1 [20]** makes a consequential amendment.

Schedule 3 [5] and [6] omit provisions which enable the Independent Pricing and Regulatory Tribunal (the *Tribunal*) to investigate and report on and determine regulated retail tariffs or regulated retail charges for electricity. The amendment is consequential on the removal of regulated offer prices from the National Law. **Schedule 3 [7]–[10] and [24]** make consequential amendments.

Schedule 3 [11] removes from the Tribunal its functions relating to monitoring regulated offer prices. **Schedule 3 [13] and [14]** make consequential amendments.

Schedule 3 [12] omits a provision that requires the Minister to provide information to the Tribunal in relation to compliance with Tribunal determinations about regulated offer prices.

Schedule 3 [15] omits a requirement for the Tribunal to report on compliance with Tribunal determinations about regulated offer prices.

Schedule 3 [16] and [17] omit references to disputes or complaints concerning regulated offer customers to whom electricity is supplied from provisions setting out matters that an energy ombudsman scheme may deal with.

Schedule 3 [18] omits a reference to a dispute or complaint concerning a regulated offer customer from a provision that imposes a condition on a licence of an electricity distributor.

Schedule 3 [22] inserts savings and transitional provisions.

Schedule 4 Amendment of Electricity Supply (General) Regulation 2001

Schedule 4 [1] amends a provision that confers a right to apply to an energy ombudsman so as to remove the application of the provision to regulated offer customers for electricity.

Schedule 4 [2] and [3] remove references to regulated offer customers.

Schedule 4 [4] is consequential on the amendment made by **Schedule 3 [9]**.

Schedule 5 Amendment of Gas Supply Act 1996 No 38

Schedule 5 [1] omits a provision which provided for gas pricing order provisions to cease to have effect on 30 June 2013.

Schedule 5 [2] changes a reference to arrangements relating to gas pricing.

Schedule 5 [3] revives the gas pricing order provisions as if they had not ceased to have effect. No gas pricing orders have been made under the provisions.