

**Authorised Version No. 080**  
**Electricity Industry Act 2000**

**No. 68 of 2000**

Authorised Version incorporating amendments as at  
1 January 2018

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**Authorised Version No. 080**  
**Electricity Industry Act 2000**  
**No. 68 of 2000**

Authorised Version incorporating amendments as at  
1 January 2018

**The Parliament of Victoria enacts as follows:**

**Part 1—Preliminary**

**1 Purpose**

The main purpose of this Act is to regulate the electricity supply industry.

**2 Commencement**

- (1) Section 1 and this section come into operation on the day after the day on which this Act receives the Royal Assent.
- (2) Section 19(5) comes into operation on a day to be proclaimed.
- (3) Section 83 comes into operation on a day to be proclaimed.
- (4) The remaining provisions of this Act come into operation on 1 January 2001.
- (5) If section 83 does not come into operation before 31 December 2001, it comes into operation on that day.

**3 Definitions**

In this Act—

**ACCC** means the Australian Competition and Consumer Commission established by section 6A of the Competition and Consumer Act 2010 of the Commonwealth and includes a member of the Commission or a Division

S. 3 def. of  
**ACCC**  
amended by  
Nos 32/2001  
s. 28(1)(a),  
21/2012  
s. 239(Sch. 6  
item 15.1).

of the Commission performing functions of the Commission;

S. 3 def. of *AEMC* inserted by No. 59/2008 s. 3(1).

*AEMC* means the Australian Energy Market Commission established by section 5 of the Australian Energy Market Commission Establishment Act 2004 of South Australia;

S. 3 def. of *AEMO* inserted by No. 23/2009 s. 5(1).

*AEMO* means Australian Energy Market Operator Limited (ACN 072 010 327);

S. 3 def. of *Code of Practice* inserted by No. 49/2015 s. 3.

*Code of Practice* means a Code of Practice applying to the electricity industry under Part 6 of the **Essential Services Commission Act 2001** or under this Act;

S. 3 def. of *Commission* inserted by No. 62/2001 s. 70(a).

*Commission* means the Essential Services Commission established under the **Essential Services Commission Act 2001**;

S. 3 def. of *company* substituted by No. 44/2001 s. 3(Sch. item 34.1(a)).

*company* means a company within the meaning of the Corporations Act that is taken to be registered in Victoria;

S. 3 def. of *corporation* amended by No. 44/2001 s. 3(Sch. item 34.1(b)).

*corporation* has the same meaning as in the Corporations Act;

S. 3 def. of *critical electricity infrastructure* inserted by No. 72/2009 s. 4.

*critical electricity infrastructure* means—  
(a) a critical generation facility; or  
(b) a related coal mine; or

- (c) a substation, terminal station or distribution system or transmission system switchyard;

**Note**

Electricity is converted, transformed and controlled at a substation, terminal station, or distribution system or transmission system switchyard.

***critical generation facility***—

- (a) means a generation facility that—
- (i) generates electricity; and
  - (ii) has an installed or name plate generation capacity of 1000 kVA or greater; and
- (b) includes a water storage facility associated with a generation facility referred to in paragraph (a);

S. 3 def. of *critical generation facility* inserted by No. 72/2009 s. 4.

***distribution company*** means a person who is the holder of a licence to distribute electricity;

***domestic or small business customer*** means a person, or a member of a class of persons, to whom an Order under section 35(5) applies;

S. 3 def. of *domestic or small business customer* inserted by No. 59/2008 s. 3(1).

***electricity bill*** means a bill or account issued by a licensee to a customer for the supply or sale of electricity;

S. 3 def. of *electricity bill* inserted by No. 91/2004 s. 3.

***enforcement officer*** means a person appointed as an enforcement officer under Part 11 of the **Electricity Safety Act 1998**;

***generation company*** means a person who is the holder of a licence to generate electricity for supply or sale;

***licence*** means a licence issued under Part 2;

***licensee*** means the holder of a licence issued under Part 2;

***licensee standing offer*** means—

- (a) the tariffs determined by a licensee under section 35(1) and published in the Government Gazette in accordance with that subsection, as varied from time to time by the licensee as provided for under section 35(3); and
- (b) the terms and conditions determined by a licensee and approved by the Commission under section 35(1) and published in the Government Gazette in accordance with that subsection, as varied from time to time by the licensee and approved by the Commission as provided for under section 35(4);

***MCE*** means the Ministerial Council on Energy established on 8 June 2001, being the Council of Ministers with primary carriage of energy matters at a national level comprising the Ministers representing the Commonwealth, the States, the Australian Capital Territory and the Northern Territory, acting in accordance with its own procedures;

S. 3 def. of  
*licensee*  
amended by  
No. 3/2014  
s. 3.

S. 3 def. of  
*licensee*  
*standing offer*  
inserted by  
No. 59/2008  
s. 3(1).

S. 3 def. of  
*MCE*  
inserted by  
No. 59/2008  
s. 3(1).

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Part 1—Preliminary

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***National Electricity Rules*** has the same meaning as in the National Electricity (Victoria) Law;

S. 3 def. of ***National Electricity Code*** substituted as National Electricity Rules by No. 8/2005 s. 14(1).

\* \* \* \* \*

S. 3 def. of ***NEEMCO*** repealed by No. 23/2009 s. 5(2).

\* \* \* \* \*

S. 3 def. of ***Office*** repealed by No. 62/2001 s. 70(b).

***Register of Exempt Persons*** means the register established and maintained under section 33C;

S. 3 def. of ***Register of Exempt Persons*** inserted by No. 1/2017 s. 7.

***regulated tariff standing offer*** means a licensee standing offer that is subject to an Order under section 13 that is in force;

S. 3 def. of ***regulated tariff standing offer*** inserted by No. 59/2008 s. 3(1).

***related coal mine***—

S. 3 def. of ***related coal mine*** inserted by No. 72/2009 s. 4.

- (a) means a coal mine from which coal is extracted for use in a critical generation facility; and
- (b) includes a water storage facility associated with a coal mine referred to in paragraph (a);

S. 3 def. of  
*relevant  
published  
offer*  
inserted by  
No. 59/2008  
s. 3(1).

*relevant published offer* means the tariffs and terms and conditions on which a specified retailer sells electricity to small retail customers that are published in accordance with section 36A;

*retailer* means the holder of a licence to sell electricity otherwise than through the wholesale electricity market;

*SEC* means the State Electricity Commission of Victoria;

S. 3 def. of  
*small retail  
customer*  
inserted by  
No. 91/2004  
s. 3,  
amended by  
No. 59/2008  
s. 3(2).

*small retail customer* in section 36A, 40C, 40D or 40E means a person in a class of persons declared to be small retail customers for the purposes of that section by Order under section 7AA(1)(a);

S. 3 def. of  
*specified  
circum-  
stances*  
inserted by  
No. 59/2008  
s. 3(1).

*specified circumstances*, in section 36A, means circumstances declared to be specified circumstances by Order under section 7AA(1)(c);

S. 3 def. of  
*specified  
retailer*  
inserted by  
No. 59/2008  
s. 3(1).

*specified retailer* means a retailer declared to be a specified retailer by Order under section 7AA(1)(b);

S. 3 def. of  
*standing offer*  
inserted by  
No. 59/2008  
s. 3(1).

*standing offer* means—

- (a) a licensee standing offer; or
- (b) a regulated tariff standing offer;

S. 3 def. of  
*Tariff Order*  
substituted by  
No. 25/2004  
s. 3.

*Tariff Order* means an Order made under section 15A as that Order is amended and in force from time to time;

*transmission company* means a person who is the holder of a licence to transmit electricity;

\* \* \* \* \*

S. 3 def. of *VENCorp* amended by No. 32/2001 s. 28(1)(b), repealed by No. 23/2009 s. 5(2).

*wholesale electricity market* means the market for wholesale trading in electricity operated by AEMO.

S. 3 def. of *wholesale electricity market* amended by No. 23/2009 s. 5(3).

#### 4 Crown to be bound

This Act binds the Crown, not only in right of Victoria but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

#### 5 Extra-territorial operation

It is the intention of the Parliament that the operation of this Act should, so far as possible, include operation in relation to the following—

- (a) land situated outside Victoria, whether in or outside Australia;
- (b) things situated outside Victoria, whether in or outside Australia;
- (c) acts, transactions and matters done, entered into or occurring outside Victoria, whether in or outside Australia;
- (d) things, acts, transactions and matters, (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of

the Commonwealth, another State, a Territory or a foreign country.

## **6 Construction of Act**

This Act must be read and construed as one with the **Electricity Industry (Residual Provisions) Act 1993**.

## **7 Application of Act to certain distribution, transmission and generation companies**

- (1) The Governor in Council, by Order published in the Government Gazette, may declare that a reference in specified provisions in Part 5 of this Act or specified provisions in another Act to a distribution company, transmission company or generation company does not include a reference to a specified distribution company, transmission company or generation company.
- (2) A copy of an Order under subsection (1) must be laid before each House of the Parliament on or before the sixth sitting day after it is made.
- (3) An Order under subsection (1) is subject to disallowance by a House of the Parliament, and section 23 of the **Subordinate Legislation Act 1994** applies as if the Order were a statutory rule.

## **7A Application of the Essential Services Commission Act 2001**

For the purposes of the **Essential Services Commission Act 2001**—

- (a) this Act is relevant legislation; and
- (b) the electricity industry is a regulated industry.

S. 7A  
inserted by  
No. 85/2001  
s. 3,  
amended by  
No. 85/2001  
s. 9.

**7AA Declaration of classes of customers and retailers**

(1) The Governor in Council may by Order published in the Government Gazette—

S. 7AA  
inserted by  
No. 91/2004  
s. 4.

(a) declare a class or classes of persons to be small retail customers for the purposes of section 36A, 40C, 40D or 40E;

(b) declare a licensee to be a specified retailer for the purposes of section 36A;

S. 7AA(1)(b)  
amended by  
No. 59/2008  
s. 4(1).

(c) declare circumstances to be specified circumstances for the purposes of section 36A.

S. 7AA(1)(c)  
inserted by  
No. 59/2008  
s. 4(2).

(2) An Order under subsection (1)(a) may declare a different class or classes of persons to be small retail customers for the purposes of each section specified in that paragraph.

(3) An Order under subsection (1)(a) may specify a class of persons by reference to all or any of the following—

S. 7AA(3)  
amended by  
No. 59/2008  
s. 4(3).

(a) the person authorised to sell the electricity;

(b) the purpose for which the electricity is used;

(c) the quantity of electricity used;

(d) the period of use;

(e) the place of supply;

(f) the nature of the contract for supply of electricity;

(g) financial circumstances;

(h) any other specified factor of any kind.

**S. 7AA(3A)**  
inserted by  
No. 59/2008  
s. 4(4).

- (3A) An Order under subsection (1)(b) may declare a licensee to be a specified retailer by reference to all or any of the following—
- (a) the number of small retail customers of the licensee;
  - (b) the tariffs at, and terms and conditions on, which the licensee sells electricity to its small retail customers;
  - (c) the distribution area of a distribution company provided for in the company's licence;
  - (d) any other specified factor relevant to the sale of electricity.

**S. 7AA(3B)**  
inserted by  
No. 59/2008  
s. 4(4).

- (3B) An Order under subsection (1)(c) may declare circumstances to be specified circumstances by reference to all or any of the following—
- (a) the number of small retail customers of a specified retailer;
  - (b) the tariffs at, and terms and conditions on, which a specified retailer sells electricity to its small retail customers;
  - (c) the distribution area of a distribution company provided for in the company's licence;
  - (d) any other specified factor relevant to the sale of electricity.
- (4) An Order under this section may confer powers and functions on, and leave any matter to be decided by, the Commission.

## Part 2—Regulation of electricity industry

### Division 1—Introductory

#### 8 Application of Part

This Part applies to any person, including SEC and any distribution company, transmission company, retailer and generation company.

\* \* \* \* \*

S. 8  
amended by  
No. 23/2009  
s. 6.

S. 9  
repealed by  
No. 85/2001  
s. 4(1).

#### 10 Objectives of the Commission

The objectives of the Commission under this Act are—

- (a) to the extent that it is efficient and practicable to do so, to promote a consistent regulatory approach between the electricity industry and the gas industry; and
- (b) to promote the development of full retail competition; and
- (c) to promote protections for customers, including in relation to assisting customers who are facing payment difficulties.

\* \* \* \* \*

S. 10  
substituted by  
No. 62/2001  
s. 71.

S. 10(b)  
amended by  
No. 49/2015  
s. 4(a).

S. 10(c)  
inserted by  
No. 49/2015  
s. 4(b).

S. 11  
amended by  
Nos 62/2001  
s. 70(d)(e),  
25/2004  
s. 4(1),  
repealed by  
No. 31/2006  
s. 3.

## Division 2—Price regulation

### 12 Powers in relation to price regulation

S. 12(1)  
amended by  
No. 62/2001  
s. 70(c).

(1) For the purposes of Part 3 of the **Essential Services Commission Act 2001**—

S. 12(1)(a)  
repealed by  
No. 85/2001  
s. 4(2).

\* \* \* \* \*

S. 12(1)(b)  
amended by  
No. 62/2001  
s. 70(d).

(b) the power to regulate prescribed prices in respect of prescribed goods and services is conferred on the Commission in respect of the following—

(i) charges for connection to, and the use of, any distribution system;

S. 12(1)(b)(ii)  
repealed by  
No. 31/2006  
s. 3.

\* \* \* \* \*

(iii) tariffs for the sale of electricity regulated by Order under section 13, to the extent specified in such an Order.

S. 12(2)  
amended by  
No. 62/2001  
s. 70(d),  
repealed by  
No. 31/2006  
s. 3.

\* \* \* \* \*

### 13 Regulation of tariffs for prescribed customers

(1) The Governor in Council may, by Order published in the Government Gazette, regulate, in such manner and in relation to such period as the Governor in Council thinks fit, tariffs for the sale of electricity to prescribed customers or a class of prescribed customers.

(1A) The Governor in Council may only make an Order under subsection (1) if under an MCE directed retail competition review the AEMC—

S. 13(1A)  
inserted by  
No. 59/2008  
s. 5(1).

- (a) concludes that competition in a market for electricity is not effective; and
- (b) recommends, in accordance with the MCE's written direction for that review, that price controls on prices for retail electricity services be (as the case requires) retained or reintroduced.

(2) Without limiting the generality of subsection (1), the manner may include—

- (a) fixing the tariff or the rate of increase or decrease in a tariff;
- (b) fixing a maximum tariff or maximum rate of increase or minimum rate of decrease in the maximum tariff;
- (c) fixing an average tariff or an average rate of increase or decrease in the average tariff;
- (d) specifying policies or principles for fixing tariffs;
- (e) specifying a tariff determined by reference to a general price index, the cost of production, a rate of return on assets employed or any other specified factor;
- (f) specifying a tariff determined by reference to any one or more of the following—
  - (i) a prescribed customer or a class of prescribed customers;
  - (ii) a person or a class of persons authorised to sell electricity;
  - (iii) the purpose for which the electricity is used;

- (iv) the quantity of electricity used;
- (v) the period of use;
- (vi) the place of supply;
- (vii) any other specified factor relevant to the sale of electricity.

S. 13(2A)  
inserted by  
No. 59/2008  
s. 5(2).

(2A) Without limiting the generality of subsection (1), in determining the manner tariffs for the sale of electricity to prescribed customers or a class of prescribed customers are to be regulated, the Governor in Council may have regard to the tariffs payable by the prescribed customers or a class of prescribed customers during the review period.

S. 13(3)  
amended by  
Nos 62/2001  
s. 70(c)(d),  
75/2004  
s. 6(1).

(3) An Order under subsection (1) may direct the Commission to make a decision in respect of such factors and matters or in accordance with such procedures, matters or bases as are specified in the Order, or both.

S. 13(4)  
amended by  
No. 62/2001  
s. 70(d),  
substituted by  
No. 75/2004  
s. 6(2).

(4) An Order under subsection (1) has effect as from the date specified in the Order.

S. 13(4A)  
inserted by  
No. 75/2004  
s. 6(2).

(4A) Sections 53 and 54 of the **Essential Services Commission Act 2001** apply to an Order under subsection (1) as if the Order were a determination made by the Commission under that Act.

(5) The Governor in Council may, by Order published in the Government Gazette, declare that a person or class of persons specified in the Order is, for the purposes of this section, a prescribed customer or class of prescribed customers.

(6) In this section—

***MCE directed retail competition review*** means an MCE directed review (within the meaning of the National Electricity (Victoria) Law) under section 41(1)(d) of that Law;

S. 13(6) def. of *MCE directed retail competition review* inserted by No. 59/2008 s. 5(3).

***prescribed customer*** means a person, or a member of a class of persons, to whom an Order under subsection (5) applies.

***review period*** means the period—

S. 13(6) def. of *review period* inserted by No. 59/2008 s. 5(3).

(a) commencing on the day that the direction of the MCE requiring an MCE directed retail competition review is published in the South Australian Government Gazette under section 41(3) of the National Electricity (Victoria) Law; and

(b) ending on the day before the day the Order under subsection (1) is made.

\* \* \* \* \*

S. 13(7) amended by Nos 40/2003 s. 12, 91/2004 s. 5, 55/2007 s. 5, repealed by No. 59/2008 s. 5(4).

\* \* \* \* \*

S. 14 amended by Nos 62/2001 s. 70(c)(d), 24/2002 s. 20, repealed by No. 25/2004 s. 4(2).

## 15 Continuation of charges relating to distribution system

(1) This section applies if—

S. 15(1)(a)  
amended by  
No. 62/2001  
s. 70(c)(d).

- (a) the Commission has made a determination under the **Essential Services Commission Act 2001** regulating charges for connection to, and the use of, any distribution system; and
- (b) proceedings are commenced in respect of the determination; and
- (c) the determination is stayed or set aside.

S. 15(2)  
amended by  
No. 62/2001  
s. 70(d),  
repealed by  
No. 25/2004  
s. 4(3).

\* \* \* \* \*

S. 15(3)  
amended by  
No. 62/2001  
s. 70(d).

(3) If the decision to stay or set aside the determination is made on or after 1 January 2001, then despite the determination being stayed or set aside and despite anything to the contrary in the Tariff Order, the provisions of the determination regulating charges for connection to, and the use of, a distribution system will apply to that distribution system on and after the date of the decision to stay or set aside the determination until a determination of the Commission is in effect regulating those charges.

S. 15(4)  
amended by  
Nos 62/2001  
s. 70(c),  
25/2004  
s. 4(4).

(4) Subsection (3) is subject to any order of the Court or the appeal panel under the **Essential Services Commission Act 2001** to the contrary.

- (5) The Governor in Council may, by Order published in the Government Gazette, provide for transitional arrangements between the operation of subsection (3) and the operation of any determination of the Commission that takes effect following the determination of the proceedings.
- (6) An Order under subsection (5) may direct the Commission to make a decision in respect of such factors and matters or in accordance with such procedures, matters or bases as are specified in the Order, or both.
- (7) In this section *proceedings*, in relation to a determination, means—
- (a) proceedings on an appeal under section 55 of the **Essential Services Commission Act 2001** against the determination; or
- (b) proceedings before a Court of a kind permitted by section 62 of the **Essential Services Commission Act 2001** in respect of the determination.
- 15A New Tariff Order**
- (1) The Governor in Council may, by Order published in the Government Gazette—
- (a) specify pricing principles to apply to the making of any determination under the **Essential Services Commission Act 2001** regulating charges (other than charges for excluded services) for connection to, and the use of, any distribution system;

S. 15(5)  
amended by  
Nos 62/2001  
s. 70(d),  
25/2004  
s. 4(5).

S. 15(6)  
amended by  
Nos 62/2001  
s. 70(c)(d),  
75/2004 s. 7.

S. 15(7)(a)  
amended by  
No. 62/2001  
s. 70(f).

S. 15(7)(b)  
amended by  
No. 62/2001  
s. 70(g).

S. 15A  
inserted by  
No. 25/2004  
s. 5 (as  
amended by  
Nos 75/2004  
s. 32, 86/2004  
s. 6 (as  
amended by  
No. 39/2005  
s. 59)).

- (b) determine or authorise the Commission to determine under the **Essential Services Commission Act 2001** the distribution services that are to be excluded services for the purposes of a determination under the **Essential Services Commission Act 2001** regulating charges for connection to, and the use of, a distribution system;
  - (c) specify the criteria to be complied with by the Commission in determining under the **Essential Services Commission Act 2001** the distribution services that are to be excluded services for the purposes of a determination under the **Essential Services Commission Act 2001** regulating charges for connection to, and the use of, a distribution system;
  - (d) make provision for any matter ancillary to any matter referred to in paragraphs (a) to (c).
- (1A) The Commission must not determine distribution services provided through the use of a part of a distribution system that is a relevant augmentation to be excluded services if there is in force an Order under section 15E that applies to that augmentation.
- (1B) In subsection (1A) *relevant augmentation* has the same meaning as in section 15B.
- (2) The Governor in Council may, by Order published in the Government Gazette, amend or revoke an Order under this section.

## Division 2A—Pricing for the facilitation of the development of generation facilities

Pt 2 Div. 2A  
(Heading)  
amended by  
No. 55/2010  
s. 3.

Pt 2 Div. 2A  
(Heading and  
ss 15B–15E)  
inserted by  
No. 86/2004  
s. 3.

### 15B Definitions

S. 15B  
inserted by  
No. 86/2004  
s. 3.

In this Division—

*relevant augmentation* means an augmentation or proposed augmentation to a distribution system declared under section 15C to be a relevant augmentation;

*relevant distribution system* means a distribution system to which there is or is proposed to be a relevant augmentation;

*relevant generator* means—

S. 15B def. of  
*relevant generator*  
amended by  
No. 55/2010  
s. 4(1).

- (a) a generation company; or
- (b) a person engaging in the generation of electricity for supply or sale that has been exempted under section 17 from the requirement to hold a licence in respect of that activity.

\* \* \* \* \*

S. 15B def. of  
*wind energy generation facility*  
repealed by  
No. 55/2010  
s. 4(2).

### 15C Relevant augmentations

S. 15C  
inserted by  
No. 86/2004  
s. 3.

- (1) The Governor in Council, on the recommendation of the Minister, may, by Order published in the Government Gazette, declare an augmentation or

proposed augmentation to a distribution system to be a relevant augmentation.

S. 15C(2)  
amended by  
No. 55/2010  
s. 5.

- (2) Before making a recommendation under subsection (1) the Minister must be satisfied the augmentation or proposed augmentation facilitates the development and construction of a generation facility.

S. 15D  
(Heading)  
amended by  
No. 55/2010  
s. 6(1).  
S. 15D  
inserted by  
No. 86/2004  
s. 3.

**15D Charging principles applicable to the connection of generation facilities to distribution systems**

- (1) The Governor in Council may, by Order published in the Government Gazette—

S. 15D(1)(a)  
amended by  
No. 55/2010  
s. 6(2).

- (a) specify the principles to be applied by an operator of a relevant distribution system in determining connection charges for connection to, and use of, the relevant distribution system by a relevant generator in relation to electricity supplied from a generation facility operated by that generator so as to enable that operator to recover the capital costs that operator has incurred or may incur in respect of a relevant augmentation; and
- (b) specify the procedure for resolving disputes between an operator of a relevant distribution system and a relevant generator in relation to the application of the principles referred to in paragraph (a).
- (2) An Order under subsection (1) may confer powers and functions on the Commission to resolve a dispute referred to in subsection (1)(b), including the power to resolve a dispute by determining the application of the principles referred to in subsection (1)(a).

- (3) Section 35 of the **Essential Services Commission Act 2001** applies to the making of a determination by the Commission under an Order under subsection (1).
- (4) An Order under subsection (1), and a determination of the Commission made under that Order, apply despite anything to the contrary in—
  - (a) the Tariff Order; or
  - (b) a licence to distribute or supply electricity; or
  - (c) a determination of the Commission made under the **Essential Services Commission Act 2001**.

**15E Pricing principles in relation to relevant distribution systems**

S. 15E  
inserted by  
No. 86/2004  
s. 3.

- (1) The Governor in Council may, by Order published in the Government Gazette, specify the pricing principles to apply to the making of a determination under the **Essential Services Commission Act 2001** regulating the charges (other than charges for excluded services) for connection to, and the use of, a relevant distribution system.
- (2) If there is an inconsistency between an Order under subsection (1) and the Tariff Order, the Order under subsection (1) prevails to the extent of the inconsistency.

### **Division 3—Licences**

#### **16 Prohibition**

- (1) A person must not engage in the generation of electricity for supply or sale or the transmission, distribution, supply or sale of electricity unless the person—
  - (a) is the holder of a licence authorising the relevant activity; or

S. 16(1)  
amended by  
No. 62/2001  
s. 70(d).

(b) is exempted from the requirement to obtain a licence in respect of the relevant activity.

Penalty: 1000 penalty units and 100 penalty units for each day after the day on which a notice of contravention of this subsection is served on the person by the Commission.

S. 16(2)  
amended by  
Nos 25/2008  
s. 19, 6/2010  
s. 203(1)(Sch. 6  
item 15) (as  
amended by  
No. 45/2010  
s. 22).

(2) This section does not prohibit the transmission, distribution or supply of electricity by and for the use of a passenger transport company within the meaning of the **Transport (Compliance and Miscellaneous) Act 1983**.

S. 16(3)  
inserted by  
No. 23/2009  
s. 7.

(3) Subsection (1) does not apply to AEMO when it is performing a function or exercising a power under the National Electricity (Victoria) Law.

## 17 Exemptions

(1) The Governor in Council may by Order in Council published in the Government Gazette exempt a person from the requirement to obtain a licence in respect of the activity specified in the Order in Council.

S. 17(2)  
substituted by  
No. 3/2014  
s. 4.

(2) An Order under subsection (1) may—

- (a) be of general or specific application; and
- (b) differ according to differences in time, place and circumstances; and
- (c) apply, adopt or incorporate wholly or partially or as published or amended by the Order, the provisions of any document, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether—

- (i) as formulated, issued, prescribed or published at the time the Order is made or at any time before the Order is made; or
- (ii) as amended from time to time; and
- (d) include terms, conditions and limitations that are the same as some or all of the conditions that apply to a licence; and
- (e) be subject to such terms, conditions and limitations as are specified in the Order; and
- (ea) provide that an exemption is effective in respect of a person if the person is registered under Division 3A; and
- (f) direct the Commission to make amendments to any instrument made by the Commission to give effect to any matter specified in the Order; and
- (g) include saving and transitional provisions; and
- (h) have effect according to its tenor despite anything to the contrary in any agreement or contract; and
- (i) have effect despite anything to the contrary in section 13; and
- (j) confer powers and functions on, and leave any matter to be decided by, the Commission.

**S. 17(2)(ea)**  
inserted by  
**No. 1/2017**  
s. 8.

\* \* \* \* \*

**S. 17(3)**  
repealed by  
**No. 3/2014**  
s. 4.

S. 17(4)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004 s. 8,  
repealed by  
No. 3/2014  
s. 4.

\* \* \* \* \*

## 18 Application for licence

S. 18(1)  
amended by  
No. 62/2001  
s. 70(d).

- (1) A person may apply to the Commission for the issue of a licence authorising one or more of the following activities—
- (a) to generate electricity for supply or sale;
  - (b) to transmit electricity;
  - (c) to distribute or supply electricity;
  - (d) to sell electricity.

S. 18(2)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004 s. 9.

- (2) An application must be in a form approved by the Commission and accompanied by such documents as may be required by the Commission.

S. 18(3)  
amended by  
No. 62/2001  
s. 70(d).

- (3) An application must be accompanied by the application fee (if any) fixed by the Commission.

S. 19  
(Heading)  
inserted by  
No. 75/2004  
s. 10(1).

## 19 Grant or refusal of application

S. 19(1)  
amended by  
No. 62/2001  
ss 70(d), 72.

- (1) Subject to subsections (2) and (3) the Commission may grant or refuse an application for the issue of a licence for any reason it considers appropriate, having regard to the objectives of the Commission under this Act and under the **Essential Services Commission Act 2001**.

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- (2) The Commission must not grant an application for the issue of a licence unless the Commission is satisfied that—
- S. 19(2)  
amended by  
No. 62/2001  
s. 70(d).
- (a) subject to subsection (3), in the case of an application for a licence to sell electricity, the applicant is financially viable; and
- (b) subject to subsection (4), the applicant has the technical capacity to comply with the conditions of the licence.
- (3) The Commission does not have to be satisfied as to the applicant's financial viability, if the applicant is applying for a licence which includes a condition requiring compliance with the National Electricity Rules and the Rules include prudential requirements.
- S. 19(3)  
amended by  
Nos 62/2001  
s. 70(d),  
8/2005  
s. 14(2),  
35/2007 s. 6.
- (4) The Commission does not have to be satisfied as to the applicant's technical capacity to comply with the conditions of the licence at the time it is issued if—
- S. 19(4)  
amended by  
No. 62/2001  
s. 70(d).
- (a) the activities specified in the licence are not likely to be commenced to be carried out within the next following 12 months; and
- (b) the application is granted subject to such conditions as are decided by the Commission relating to further approval of the applicant's technical capacity or approval of future facilities necessary for the carrying out of the activities.
- S. 19(4)(b)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004  
s. 10(2).
- \*                    \*                    \*                    \*                    \*
- S. 19(5)  
amended by  
No. 62/2001  
s. 70(d),  
repealed by  
No. 35/2007  
s. 4.

- S. 19(6)  
amended by  
No. 62/2001  
s. 70(d).
- S. 19(6)(a)  
amended by  
No. 62/2001  
s. 70(d).
- S. 19(6)(b)  
amended by  
No. 62/2001  
s. 70(d).
- S. 19(7)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004  
s. 10(3).
- S. 19(8)  
amended by  
No. 62/2001  
s. 70(d).
- (6) The Commission must publish a notice in a daily newspaper generally circulating in Victoria—
- (a) specifying that an application for a licence in respect of the relevant activity has been lodged with the Commission by the person specified in the notice; and
- (b) inviting interested persons to make submissions to the Commission in respect of the application within the period and in the manner specified in the notice.
- (7) Subject to this section and any requirements specified in regulations made for the purposes of this section under section 119, the Commission may decide the procedures that are to apply in respect of the issue of licences.
- (8) The Commission must notify an applicant in writing of its decision to grant or refuse to grant the application and, in the case of a decision to refuse to grant the application, of the reasons for its decision.

## 20 Provisions relating to licences

- S. 20(1)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004 s. 11.
- S. 20(2)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004 s. 11.
- (1) A licence is to be issued for such term (if any) as is decided by the Commission and is specified in the licence.
- (2) A licence is subject to such conditions as are decided by the Commission.
- (3) If a licence is issued to 2 or more persons for the purpose of the carrying on by those persons of the activities authorised by the licence in partnership or as an unincorporated joint venture, the licence

may include conditions relating to the carrying on of those activities in that manner.

- (4) For the purposes of section 8(1)(k) of the Personal Property Securities Act 2009 of the Commonwealth, a licence is declared not to be personal property.

S. 20(4)  
inserted by  
No. 74/2010  
s. 23.

## 21 Specific licence conditions

Without limiting the generality of section 20, the conditions on a licence may include provisions—

- (a) requiring the licensee to pay specified fees and charges in respect of the licence to the Commission;
- (b) requiring the licensee to enter into agreements on specified terms or on terms of a specified type;
- (c) requiring a retailer to have such agreements with one or more distribution companies as are necessary to ensure that, subject this Act, electricity is distributed or supplied to the extent necessary to enable the retailer to sell electricity to its customers;
- (d) requiring a distribution company to have such agreements with retailers as are necessary to ensure that, subject to this Act, electricity is distributed or supplied to the extent necessary to enable the retailers to sell electricity to their customers;
- (e) requiring a distribution company—
- (i) to prepare standard agreements for the purposes of paragraphs (c) and (d); and
  - (ii) to submit those standard agreements to the Commission for approval; and

S. 21(a)  
amended by  
No. 62/2001  
s. 70(d).

S. 21(e)(ii)  
amended by  
No. 62/2001  
s. 70(d).

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S. 21(e)(iii)  
 amended by  
 No. 62/2001  
 s. 70(d).

- (iii) to offer a standard agreement approved by the Commission to a retailer for the purposes of paragraphs (c) and (d);
- (f) subject to section 47, requiring a retailer to enter into an agreement with the State for the provision of community services;
- (g) requiring a distribution company to comply with requirements relating to the provision of public lighting;

S. 21(h)  
 repealed by  
 No. 23/2009  
 s. 8.

\* \* \* \* \*

S. 21(i)  
 repealed by  
 No. 23/2009  
 s. 8.

\* \* \* \* \*

- (j) requiring the licensee to inform customers from time to time of the arrangements in place or proposed to be in place to allow them to elect to become a customer of another licensee;

S. 21(k)  
 amended by  
 Nos 62/2001  
 s. 70(d),  
 85/2001 s. 5.

- (k) requiring a licensee to give notice to customers of the existence of deemed contracts under section 39 and the methods by which those contracts may be terminated and requiring the licensee to provide for cooling-off periods approved by the Commission for the termination of those contracts;

S. 21(l)  
 amended by  
 Nos 62/2001  
 s. 70(d),  
 75/2004  
 s. 12(a).

- (l) requiring the licensee to observe specified Orders in Council, industry codes, standards, rules and guidelines, with such modifications or exemptions as may be specified by the Commission;

- (m) requiring the licensee to maintain specified accounting records and to prepare accounts according to specified principles;
- (n) specifying requirements about the ownership of real or personal property used in or in connection with the carrying on of the activities authorised by the licence;
- (o) preventing the licensee from engaging in or undertaking specified business activities;
- (p) specifying methods or principles to be applied by the licensee in determining prices or charges;
- (q) specifying methods or principles to be applied in the conduct of activities authorised by the licence;
- (r) specifying procedures for variation or revocation of the licence;
- (s) specifying the procedures to apply if an administrator is appointed under section 34;
- (t) requiring the licensee to provide, in the manner and form specified by the Commission, such information as the Commission may from time to time require;
- (u) requiring the licensee to develop, issue and comply with customer-related standards, procedures, policies and practices (including with respect to the payment of compensation to customers);

S. 21(t)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004  
s. 12(b).

\* \* \* \* \*

S. 21(v)  
inserted by  
No. 40/2003  
s. 13,  
repealed by  
No. 23/2009  
s. 8.

S. 22  
amended by  
Nos 32/2001  
s. 28(2),  
62/2001  
s. 70(d),  
substituted by  
No. 62/2001  
s. 73.

## 22 Determination of fees and charges

The fees and charges to be specified in respect of a licence for the purposes of section 21(a) are to be determined by the Minister administering the **Essential Services Commission Act 2001**—

- (a) in consultation with the Minister administering this Act; and
- (b) having regard to the total amount of the costs and expenses of the Commission that are incurred or are likely to be incurred by the Commission in the exercise of its powers for or in connection with the performance of its functions and the achievement of its objectives in relation to the electricity industry.

## 23 Condition restricting sale to certain customers

- (1) A licence to sell electricity is deemed to include a condition prohibiting the licensee from selling electricity to persons or classes of persons specified by Order under this section for the period or periods specified in the Order in respect of those persons.
- (2) The Governor in Council may by Order published in the Government Gazette specify persons or classes or persons and periods for the purposes of this section.
- (3) An Order under subsection (2) may specify a class of persons by reference to all or any of the following—
  - (a) the person authorised to sell the electricity;
  - (b) the purpose for which the electricity is used;
  - (c) the quantity of electricity used;
  - (d) the period of use;

- (e) the place of supply;
- (f) any other specified factor relevant to the sale of electricity.

\* \* \* \* \*

S. 23(4)  
amended by  
Nos 40/2003  
s. 14, 91/2004  
s. 6, 55/2007  
s. 6,  
repealed by  
No. 59/2008  
s. 6.

**23A Condition to give information to Commission**

- (1) A licence to sell electricity is taken to include a condition requiring the licensee to comply with this section.
- (2) The licensee must give to the Commission, for the purpose of enabling the Commission to perform its functions under Subdivision 3 of Division 2 of Part 7 of the **Essential Services Commission Act 2001**, the information specified by the Commission in the guidelines issued under subsection (4).
- (3) The licensee must give to the Commission the information referred to in subsection (2) in the manner and form (including by the date or dates) specified in the guidelines issued under subsection (4).
- (4) The Commission must prepare and issue guidelines for the purposes of this section.

S. 23A  
inserted by  
No. 10/2002  
s. 3,  
amended by  
No. 65/2005  
s. 26,  
repealed by  
No. 59/2008  
s. 7, new  
s. 23A  
inserted by  
No. 49/2015  
s. 5.

**23B Condition relating to advertising of enforcement action taken against licensee**

- (1) A licence is taken to include a condition requiring the licensee, at the direction of the Commission, to publish a notice, approved by the Commission, containing the things set out in subsection (2) in a

S. 23B  
inserted by  
No. 86/2004  
s. 4,  
repealed by  
No. 35/2007  
s. 5, new  
s. 23B  
inserted by  
No. 49/2015  
s. 5.

daily newspaper generally circulating in Victoria within the period specified by the Commission.

- (2) A notice published under subsection (1) must contain the following things—
- (a) a statement that enforcement action has been taken in respect of the licensee;
  - (b) an explanation of the nature of the enforcement action;
  - (c) the reason for the enforcement action;
  - (d) the status of any proceeding commenced, or action taken, in relation to the enforcement action.
- (3) In this section—
- enforcement action* has the same meaning as in section 3 of the **Essential Services Commission Act 2001**.

S. 23C  
inserted by  
No. 49/2015  
s. 5.

### **23C Condition relating to renewable energy customers**

- (1) A licence to sell electricity is taken to include a condition requiring the licensee to offer to sell electricity to a renewable energy customer at the same tariffs and on the same terms and conditions that it would offer to the customer if the customer was not a renewable energy customer.
- (2) Nothing in subsection (1) prevents a licensee from also offering to sell renewable energy customers electricity at tariffs and on terms and conditions that the licensee only makes available to renewable energy customers.
- (3) This section applies despite anything to the contrary in an Order made under section 13(1).

(4) In this section—

*renewable energy customer* means—

- (a) a qualifying customer within the meaning of section 40F(1); or
- (b) a TFiT scheme customer within the meaning of section 40F(1); or
- (c) a relevant generator within the meaning of section 40F(1) engaging in the generation of electricity from a small renewable energy generation facility within the meaning of section 40F(1).

\* \* \* \* \*

S. 24  
amended by  
No. 62/2001  
s. 70(d),  
repealed by  
No. 11/2013  
s. 3.

## **25 Condition specifying industry codes, standards, rules or guidelines**

(1) If a licence is subject to a condition of a kind referred to in section 21(1), the Commission—

S. 25(1)  
amended by  
No. 62/2001  
s. 70(d).

- (a) may, in accordance with procedures specified by the Commission, amend the specified industry codes, standards, rules or guidelines, or a document referred to in any of them, for the purposes of their application under the licence;
- (b) may resolve, or seek to resolve, disputes between the licensee and any other person relating to the specified industry codes, standards, rules or guidelines, or a document referred to in any of them, as they apply under the licence.

S. 25(1)(a)  
amended by  
No. 62/2001  
s. 70(d).

S. 25(2)  
amended by  
No. 62/2001  
s. 70(d).

- (2) If the Commission amends an industry code, standard, rule or guideline or a document under subsection (1), the Commission may at the same time, in accordance with procedures specified by the Commission, amend that code, standard, rule, guideline or document for the purposes of their application otherwise than under the licence.

## **26 Condition relating to customer-related standards, procedures, policies and practices**

S. 26(1)(a)  
amended by  
No. 62/2001  
s. 70(d).

- (1) If a licence is subject to a condition of a kind referred to in section 21(u)—
- (a) the Commission must monitor the licensee's compliance with the customer-related standards, procedures, policies and practices developed by the licensee in accordance with the condition; and

S. 26(1)(b)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004  
s. 13(a).

- (b) if the Commission considers that any of the customer-related standards, procedures, policies and practices, or compliance by the licensee with any of them, disadvantages, or may disadvantage, any class of its customers, or all of its customers, the Commission may require the licensee to modify or revoke any part of the standards, procedures, policies or practices that causes the disadvantage or possible disadvantage.

S. 26(2)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004  
s. 13(b).

- (2) The Commission, in making a requirement under subsection (1)(b), must have regard to the prices, risks and costs associated with or resulting from the modification or revocation which is the subject of the requirement.

S. 26(3)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004  
s. 13(b).

- (3) The Commission must not make a requirement under subsection (1)(b) unless the Commission has given the licensee an opportunity to make representations on the matter.

(4) Section 35 of the <b>Essential Services Commission Act 2001</b> applies to the making of a requirement under subsection (1) as if it were a determination made by the Commission under the <b>Essential Services Commission Act 2001</b> .	S. 26(4) amended by Nos 62/2001 s. 70(h), 75/2004 s. 13(b)(c).
* * * * *	S. 26A inserted by No. 40/2003 s. 15, repealed by No. 23/2009 s. 9.
* * * * *	S. 26B inserted by No. 40/2003 s. 15, repealed by No. 23/2009 s. 10.
* * * * *	S. 27 amended by Nos 13/2001 s. 3, 62/2001 s. 70(d), 85/2001 s. 6, 25/2004 s. 6, 75/2004 s. 14, 31/2006 s. 4, repealed by No. 55/2007 s. 4.

## 28 Customer dispute resolution

- (1) A licence to—
- (a) distribute or supply electricity; or
  - (b) sell electricity—
- must be issued subject to a condition requiring the licensee to enter into a customer dispute resolution scheme approved by the Commission.
- S. 28(1) amended by No. 62/2001 s. 70(d).

S. 28(2)  
amended by  
No. 62/2001  
s. 70(d).

(2) In approving a customer dispute resolution scheme, the Commission must have regard to—

S. 28(2)(a)  
amended by  
No. 62/2001  
s. 70(c)(d).

- (a) the objectives of the Commission under this Act and under the **Essential Services Commission Act 2001**; and
- (b) the need to ensure that the scheme is accessible to the licensee's customers and that there are no cost barriers to those customers using the scheme; and
- (c) the need to ensure that the scheme is independent of the members of the scheme; and
- (d) the need for the scheme to be fair and be seen to be fair; and
- (e) the need to ensure that the scheme will publish decisions and information about complaints received by the scheme so as to be accountable to the members of the scheme and the customers of the scheme members; and
- (f) the need for the scheme to undertake regular reviews of its performance to ensure that its operation is efficient and effective.

S. 28(3)  
amended by  
No. 62/2001  
s. 70(d).

(3) The Commission may, in accordance with this Part, vary any existing licence to—

- (a) distribute or supply electricity; or
- (b) sell electricity—

to include a condition of a kind referred to in subsection (1).

## 29 Variation or revocation of licence

- (1) A licence or the licence conditions may be varied—
- (a) in accordance with the procedures specified in the licence conditions; or
  - (b) by agreement between the Commission and the licensee; or S. 29(b)  
amended by  
No. 62/2001  
s. 70(d).
  - (c) by a notice in accordance with subsection (2) served on the licensee.
- (2) The Commission must not vary a licence or the licence conditions by a notice unless—
- (a) the Commission is satisfied that the variation is necessary— S. 29(2)(a)  
amended by  
No. 62/2001  
s. 70(d).
    - (i) having regard to the objectives of the Commission under this Act and under the **Essential Services Commission Act 2001**; or S. 29(2)(a)(i)  
amended by  
No. 62/2001  
s. 72.
    - (ii) to give effect to Division 7; and
  - (b) the Commission has given the licensee an opportunity to make representations on the matter. S. 29(2)(b)  
amended by  
No. 62/2001  
s. 70(d).
- (3) The Commission may revoke a licence in accordance with the procedures specified in the licence conditions. S. 29(3)  
amended by  
No. 62/2001  
s. 70(d).
- (4) In deciding whether to revoke a licence the Commission must have regard to any direction of the Minister under section 96 that is in force. S. 29(4)  
inserted by  
No. 55/2010  
s. 7.

S. 29(5)  
inserted by  
No. 55/2010  
s. 7.

- (5) Anything in the procedures specified in the licence's conditions for the revocation of the licence that is inconsistent with subsection (4) is of no effect.

S. 29A  
inserted by  
No. 49/2015  
s. 6.

**29A Variation to licence condition—contravention of licence or Code of Practice**

- (1) The Commission, by written notice served on the licensee, may vary a licence or licence condition without the consent of the licensee if the licensee has contravened or is contravening a condition of the licence or a provision of a Code of Practice.
- (2) A licence or licence condition that is varied under subsection (1) must specify the action that the licensee is required to take—
- (a) to rectify the contravention; and
  - (b) to prevent any future contravention of the licence condition or provision of the Code of Practice.
- (3) The Commission must not vary a licence or the licence condition under this section unless the Commission has given the licensee an opportunity to make representations on the matter.

S. 30  
amended by  
No. 62/2001  
s. 70(d).

**30 Gazettal requirement**

The Commission must ensure that—

- (a) notice of the grant of a licence including—
- (i) the name of the licensee;
  - (ii) the term of the licence;
  - (iii) the place where a copy of the licence may be inspected;

(b) notice of a variation or revocation under section 29—

is published in the Government Gazette as soon as possible after the grant of a licence or the variation or revocation, as the case requires.

### 31 Transfer of licence

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|--|--|
| (1) The holder of a licence may apply to the Commission for approval to transfer the licence.  | S. 31(1)<br>amended by<br>No. 62/2001<br>s. 70(d).                         |
| (2) An application must be in a form approved by the Commission and accompanied by such documents as may be required by the Commission.  | S. 31(2)<br>amended by<br>Nos 62/2001<br>s. 70(d),<br>75/2004<br>s. 15(1). |
| (3) An application must be accompanied by the application fee (if any) fixed by the Commission.  | S. 31(3)<br>amended by<br>No. 62/2001<br>s. 70(d).                         |
| (4) The Commission must publish in a daily newspaper generally circulating in Victoria a notice—   | S. 31(4)<br>amended by<br>No. 62/2001<br>s. 70(d).                         |
| (a) specifying that an application for the transfer of the licence has been lodged with the Commission for the transfer by the holder to a proposed transferee specified in the notice; and  | S. 31(4)(a)<br>amended by<br>No. 62/2001<br>s. 70(d).                      |
| (b) inviting interested persons to make submissions to the Commission in respect of the application within the period and in the manner specified in the notice.   | S. 31(4)(b)<br>amended by<br>No. 62/2001<br>s. 70(d).                      |
| (5) Subject to this section, the Commission may approve, or refuse to approve, the application for any reason it considers appropriate, having regard to the objectives of the Commission under this Act and under the <b>Essential Services Commission Act 2001</b> . | S. 31(5)<br>amended by<br>No. 62/2001<br>ss 70(d), 72.                     |

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- S. 31(6)  
amended by  
No. 62/2001  
s. 70(d).
- S. 31(6)(a)  
amended by  
No. 62/2001  
s. 70(d).
- S. 31(7)  
amended by  
Nos 62/2001  
s. 70(d),  
8/2005  
s. 14(2),  
35/2007 s. 6.
- S. 31(8)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004  
s. 15(2)(3).
- S. 31(9)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004  
s. 15(2).
- S. 31(10)  
amended by  
No. 62/2001  
s. 70(d).
- S. 31(11)  
inserted by  
No. 32/2001  
s. 28(3),  
amended by  
No. 62/2001  
s. 70(d).
- (6) The Commission must not approve the application unless the Commission is satisfied that—
- (a) the proposed transferee has the technical capacity to comply with the conditions of the licence or the conditions as varied by the Commission under this section; and
- (b) subject to subsection (7), in the case of an application for the transfer of a licence to sell electricity, the proposed transferee is financially viable.
- (7) The Commission does not have to be satisfied as to the applicant's financial viability if the licence includes a condition requiring compliance with the National Electricity Rules and the Rules include prudential requirements.
- (8) The Commission may decide that, upon the transfer of the licence under this section, the conditions to which the licence is subject are varied as decided by the Commission.
- (9) Subject to this section and any requirements specified in regulations made for the purposes of this section under section 119, the Commission may decide the procedures that are to apply in respect of the transfer of the licences.
- (10) The Commission must notify an applicant in writing of its decision to approve or refuse to approve the application and, in the case of a decision to refuse to approve the application, of the reasons for its decision.
- (11) The Commission must ensure that notice of the approval for the transfer of a licence is published in the Government Gazette as soon as possible after the decision to approve the transfer is made.

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**S. 32**  
amended by  
No. 62/2001  
s. 70(d),  
repealed by  
No. 3/2014  
s. 5.

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**S. 33**  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004 s. 16,  
21/2012  
s. 239(Sch. 6  
items 15.2,  
15.3),  
repealed by  
No. 3/2014  
s. 5.

**33A Ministerial powers in relation to transmission company licences**

**S. 33A**  
inserted by  
No. 23/2009  
s. 11.

- (1) Despite anything to the contrary in this Division, the Minister, by Order published in the Government Gazette, may—
  - (a) revoke a condition to which a licence to transmit electricity is subject; or
  - (b) amend a condition to which a licence to transmit electricity is subject; or
  - (c) revoke a licence.
- (2) The Minister, as soon as practicable after making an Order under subsection (1), must notify the Commission of the making of an Order.

Pt 2 Div. 3A  
(Heading and  
ss 33B–33F)  
inserted by  
No. 1/2017  
s. 9.

## Division 3A—Register of Exempt Persons

S. 33B  
inserted by  
No. 1/2017  
s. 9.

### 33B Definitions

In this Division—

*exemption* means an exemption under an Order made under section 17;

*relevant exempt person* means a person who, because of an Order made under section 17, will be exempt from a requirement to obtain a licence to undertake any of the following activities when the person is registered in the Register of Exempt Persons—

- (a) the generation of electricity for supply or sale;
- (b) the transmission of electricity;
- (c) the distribution or supply of electricity;
- (d) the sale of electricity;

*required details* means the details required under section 33C(2).

#### Note

An Order made under section 17 may also exempt a person from a requirement to obtain a licence to undertake the generation of electricity for supply or sale, the transmission of electricity, the distribution or supply of electricity, or the sale of electricity without requiring the person to be registered in the Register of Exempt Persons.

**33C Register of Exempt Persons**

S. 33C  
inserted by  
No. 1/2017  
s. 9.

- (1) The Commission must establish and maintain a register of relevant exempt persons (the *Register of Exempt Persons*).
- (2) The Commission must enter the following details in the Register of Exempt Persons in respect of every relevant exempt person registered under section 33E (a *registered person*)—
  - (a) the name of the registered person;
  - (b) the activity the registered person undertakes under an exemption;
  - (c) the date from which the exemption applying to the registered person is in force;
  - (d) whether the exemption applying to the registered person is in force;
  - (e) the prescribed particulars (if any).
- (3) The Register of Exempt Persons may contain any other information the Commission considers appropriate.
- (4) The Register of Exempt Persons is to be kept in the form and manner determined by the Commission.

**33D Application for registration in Register of Exempt Persons**

S. 33D  
inserted by  
No. 1/2017  
s. 9.

- (1) A relevant exempt person may apply to the Commission to be registered in the Register of Exempt Persons.
- (2) An application must—
  - (a) be in writing in the form approved by the Commission; and
  - (b) contain the information required by the Commission.

S. 33E  
inserted by  
No. 1/2017  
s. 9.

### **33E Registration**

- (1) On receiving an application under section 33D, the Commission must—
  - (a) register the relevant exempt person in the Register of Exempt Persons; and
  - (b) enter the required details in the Register of Exempt Persons.
- (2) Registration of a relevant exempt person under this section takes effect when the Commission enters the required details in the Register of Exempt Persons.

S. 33F  
inserted by  
No. 1/2017  
s. 9.

### **33F Public availability of Register of Exempt Persons**

The Commission must make the required details kept in the Register of Exempt Persons publicly available on its Internet site, free of charge.

## **Division 4—Appointment of administrator**

### **34 Appointment of administrator**

S. 34(1)  
amended by  
No. 62/2001  
s. 70(d).

- (1) This section applies if the Commission considers that—
  - (a) the contravention by a licensee of the licence conditions threatens the security of electricity supply; and
  - (b) any other remedies to enforce compliance are not adequate.

S. 34(2)  
amended by  
No. 62/2001  
s. 70(d).

- (2) The Commission may appoint an administrator to the business in respect of which the licence is issued.
- (3) The administrator has such functions and powers in relation to the business in respect of which the licence is issued as are specified in the appointment of the administrator.

- (4) Unless sooner revoked by the Commission, the appointment of an administrator has effect for a period of 28 days but the appointment may be renewed for a further period or periods, each period not exceeding 28 days. **S. 34(4) amended by No. 62/2001 s. 70(d).**
- (5) The terms and conditions (including remuneration) of appointment of the administrator are to be decided by the Commission. **S. 34(5) amended by Nos 62/2001 s. 70(d), 75/2004 s. 17.**

### **34A Corporations Act displacement**

This Division is declared to be a Corporations legislation displacement provision for the purposes of section 5G of the Corporations Act in relation to the provisions of Chapter 2D and Chapter 5 of that Act.

**S. 34A inserted by No. 51/2012 s. 3.**

#### **Note**

Section 5G of the Corporations Act provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision, any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not apply to the extent necessary to avoid the inconsistency.

## **Division 5—Terms and conditions of sale and supply of electricity**

### **35 Offer to domestic or small business customers (licensee standing offers)**

- (1) Without limiting the generality of section 20(2) or (3) or section 21, the conditions to which a licence to sell electricity, being a licence under which electricity may be sold to domestic or small business customers, is subject, include a condition requiring the licensee to offer to supply and sell electricity to domestic or small business customers, subject to this section and to any Order

**S. 35 (Heading) inserted by No. 59/2008 s. 8(1).**

in force under section 13 and to the conditions of its licence—

S. 35(1)(a)  
amended by  
No. 55/2007  
s. 12.

(a) at tariffs determined by the licensee and published by the licensee in the Government Gazette at least one month before they take effect; and

S. 35(1)(b)  
amended by  
Nos 62/2001  
s. 70(d),  
55/2007 s. 12.

(b) on terms and conditions determined by the licensee and approved by the Commission and published by the licensee in the Government Gazette at least one month before they take effect.

S. 35(2)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004 s. 18,  
substituted by  
No. 39/2005  
s. 55(1).

(2) The terms and conditions determined by the licensee for the purposes of subsection (1) must not be inconsistent with the terms and conditions decided by the Commission under section 36(1).

S. 35(3)  
amended by  
Nos 55/2007  
s. 12, 59/2008  
s. 8(2),  
49/2015  
s. 7(1).

(3) Subject to subsections (3A) and (3E) to (3G), the tariffs determined by a licensee and published in the Government Gazette under subsection (1) may be varied by notice published by the licensee in the Government Gazette not less than one month before the variation is to take effect.

S. 35(3A)  
inserted by  
No. 59/2008  
s. 8(3).

(3A) A licensee must not vary tariffs under subsection (3) that have been in effect for less than 6 months.

S. 35(3B)  
inserted by  
No. 49/2015  
s. 7(2).

(3B) The Minister, by Order published in the Government Gazette, may specify either or both of the following—

(a) a date on which, or period within which, licensees may publish a notice referred to in subsection (3);

(b) a date on which, or period within which, tariffs varied in accordance with subsection (3) must take effect.

- (3C) A date specified in an Order made in the exercise of the power under subsection (3B)(b) may be a date that is less than one month before tariffs varied in accordance with subsection (3) would otherwise take effect. **S. 35(3C) inserted by No. 49/2015 s. 7(2).**
- (3D) A period specified in an Order made in the exercise of the power under subsection (3B)(b) may end on a day that is less than one month before tariffs varied in accordance with subsection (3) would otherwise take effect. **S. 35(3D) inserted by No. 49/2015 s. 7(2).**
- (3E) If an Order made in the exercise of the power under subsection (3B)(a) is in effect, a licensee must not vary the tariffs under subsection (3) unless the notice referred to in subsection (3) is published on the date or within the period specified in the Order (as the case requires). **S. 35(3E) inserted by No. 49/2015 s. 7(2).**
- (3F) If an Order made in the exercise of the power under subsection (3B)(b) is in effect and the Order specifies a date on which tariffs varied in accordance with subsection (3) must take effect, the tariffs take effect on the date specified in the Order. **S. 35(3F) inserted by No. 49/2015 s. 7(2).**
- (3G) If an Order made in the exercise of the power under subsection (3B)(b) is in effect and the Order specifies a period within which tariffs varied in accordance with subsection (3) must take effect and the date specified in a notice under subsection (3) is within that period, the tariffs take effect on that date. **S. 35(3G) inserted by No. 49/2015 s. 7(2).**
- (4) The terms and conditions determined by a licensee and published in the Government Gazette under subsection (1) may, with the approval of the Commission, be varied by notice published by the licensee in the Government Gazette not less than one month before the variation is to take effect. **S. 35(4) amended by Nos 62/2001 s. 70(d), 59/2008 s. 8(4).**

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**S. 35(4A)**  
inserted by  
No. 91/2004  
s. 7(1).

- (4A) A person who is a domestic or small business customer may accept an offer by a licensee under this section even if the person was previously a party to a contract for the supply or sale of electricity on different terms and conditions with the same licensee or another licensee.
- (5) The Governor in Council may, by Order published in the Government Gazette, declare that a person or class of persons specified in the Order is, for the purposes of this section, a domestic or small business customer or class of domestic or small business customers.
- (6) An Order under subsection (5) may specify a class of persons by reference to all or any of the following—
- (a) the person authorised to sell the electricity;
  - (b) the purpose for which the electricity is used;
  - (c) the quantity of electricity used;
  - (d) the period of use;
  - (e) the place of supply;
  - (f) any other specified factor relevant to the sale of electricity.
- (7) An Order under subsection (5) may confer powers and functions on, and leave any matter to be decided by, the Commission.

**S. 35(7)**  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004 s. 18.

**S. 35(7A)**  
inserted by  
No. 30/2003  
s. 85,  
substituted by  
Nos 106/2003  
s. 22(1),  
72/2010  
s. 48(Sch.  
item 8(1)).

- (7A) Section 81 of the Australian Consumer Law (Victoria) does not apply to the amendment of an agreement for the sale and supply of electricity that is the result of a variation under subsection (3) or (4) if the agreement is an unsolicited consumer agreement.

- (7B) Sections 78(2), 83, 84 and 85 of the Australian Consumer Law (Victoria) do not apply to a contract for the supply or sale of electricity to a domestic or small business customer.
- S. 35(7B) inserted by No. 106/2003 s. 22(1), amended by No. 72/2010 s. 48(Sch. item 8(3)).
- (7C) Section 82 of the Australian Consumer Law (Victoria) does not apply to a contract for the supply or sale of electricity to a domestic or small business customer unless the terms and conditions determined for the purpose of subsection (1) (in compliance with subsection (2)) require the inclusion of a cooling-off period in that contract.
- S. 35(7C) inserted by No. 106/2003 s. 22(1), amended by No. 72/2010 s. 48(Sch. item 8(4)).
- (7D) If section 82(3)(b) of the Australian Consumer Law (Victoria) applies to a contract for the supply or sale of electricity to a domestic or small business customer then, for the purposes of that subsection, the domestic or small business customer is deemed to have received the document evidencing the contract and the notice on the day on which the licensee is taken under that contract to have given the document and notice to the customer.
- S. 35(7D) inserted by No. 106/2003 s. 22(1), amended by No. 72/2010 s. 48(Sch. item 8(5)).
- (8) In this section—
- cooling-off period* means a period within which a person is entitled under a contract to cancel the contract;
- S. 35(8) def. of *cooling-off period* inserted by No. 106/2003 s. 22(2), amended by Nos 59/2008 s. 8(5)(a), 72/2010 s. 48(Sch. item 8(2)(a)).

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S. 3 def. of *domestic or small business customer* repealed by No. 59/2008 s. 8(5)(b).

\* \* \* \* \*

S. 3 def. of *unsolicited consumer agreement* inserted by No. 72/2010 s. 48(Sch. item 8(2)(b)).

*unsolicited consumer agreement* has the same meaning as in section 69 of the Australian Consumer Law (Victoria).

S. 35(9) amended by Nos 40/2003 s. 16, 91/2004 s. 7(2), 55/2007 s. 7, repealed by No. 59/2008 s. 8(6).

\* \* \* \* \*

S. 35A inserted by No. 59/2008 s. 9, amended by No. 3/2014 s. 6(a).

**35A Licensee standing offer tariffs to be given to Commission**

Without limiting the generality of section 20(2) or (3) or section 21, the conditions to which a licence to sell electricity, being a licence under which electricity may be sold to domestic or small business customers, is subject, include a condition requiring the licensee—

S. 35A(a) substituted by No. 3/2014 s. 6(b).

- (a) to, as soon as practicable after the licensee publishes tariffs in accordance with section 35, input those tariffs into an Internet site nominated by the Minister so that the tariffs are able to be published on the Internet; and

(b) if an Internet site has not been nominated by the Minister for the purposes of paragraph (a), to, on the same day the licensee publishes tariffs in accordance with section 35—

S. 35A(b)  
substituted by  
No. 3/2014  
s. 6(b).

(i) give a copy of those tariffs to the Commission; and

(ii) inform the Commission, in writing, of the day those tariffs take effect.

**35B Commission must publish on Internet licensee standing offer tariffs**

S. 35B  
inserted by  
No. 59/2008  
s. 9,  
substituted by  
No. 3/2014  
s. 7.

The Commission must publish on its Internet site tariffs it is given under section 35A(b) on the day those tariffs take effect.

**35C Internet publication and bill notification of licensee standing offers**

S. 35C  
inserted by  
No. 59/2008  
s. 9.

(1) Without limiting the generality of section 20(2) or (3) or section 21, the conditions to which a licence to sell electricity, being a licence under which electricity may be sold to domestic or small business customers, is subject, include a condition requiring the licensee to—

(a) publish, in accordance with guidelines issued under subsection (2), on the licensee's Internet site details of licensee standing offers that are in effect; and

(b) notify, in writing, a domestic or small business customer of the licensee standing offer that is in effect and that applies to electricity sold to that customer at any time before or in or with the customer's first electricity bill after that licensee standing offer has taken effect.

S. 35C(1)(b)  
amended by  
No. 57/2009  
s. 3.

- (2) The Commission must prepare and issue guidelines for the purposes of this section specifying—
- (a) the manner of publication of details of licensee standing offers that are in effect, including the accessibility of those licensee standing offers on a licensee's Internet site; and
  - (b) the nature of the details to be published; and
  - (c) any other matters that the Commission considers relevant.

S. 35D  
(Heading)  
amended by  
No. 49/2015  
s. 8(1).

**35D Required tariff information and licensee contact information to be published in newspaper and Government Gazette**

S. 35D  
inserted by  
No. 59/2008  
s. 9.

S. 35D(1)  
amended by  
No. 49/2015  
s. 8(2).

- (1) Without limiting the generality of section 20(2) or (3) or section 21, the conditions to which a licence to sell electricity, being a licence under which electricity may be sold to domestic or small business customers, is subject, include a condition requiring the licensee to, on the required day, publish in a newspaper circulating generally throughout Victoria and in the Government Gazette—
- (a) required tariff information; and
  - (b) the licensee's contact information.

- (2) In this section—

***licensee's contact information*** means all of the following information—

- (a) the licensee's telephone number;
- (b) the licensee's fax number;

- (c) the licensee's postal address;
- (d) the Internet address of the licensee's Internet site;

***required day*** means the day the licensee varies a tariff or tariffs for the supply and sale of electricity by notice published in the Government Gazette in accordance with section 35(3);

***required tariff information*** means—

- (a) tariff variation information; and
- (b) the date a tariff or tariffs varied in accordance with section 35(3) takes or take effect; and
- (c) a description of the tariff or tariffs referred to in paragraph (b); and
- (d) the main reasons for the variation of a tariff or tariffs referred to in paragraph (b);

***tariff variation information*** means—

- (a) in the case of a single tariff for the supply and sale of electricity that is varied in accordance with section 35(3), the weighted tariff variation relating to that tariff determined in accordance with an Order under section 35E;
- (b) in the case where more than one tariff for the supply and sale of electricity is varied in accordance with section 35(3) at the same time in accordance with that section, the weighted tariff variation relating to those tariffs determined in accordance with an Order under section 35E.

S. 35E  
inserted by  
No. 59/2008  
s. 9.

### **35E Order specifying method and variables to be used to determine weighted tariff variation**

The Governor in Council, by Order published in the Government Gazette, may specify the method and variables to be used to determine the weighted tariff variation for the purposes of paragraphs (a) and (b) of the definition of *tariff variation information* in section 35D(2).

### **36 Terms and conditions of contracts for sale of electricity to certain customers**

(1) A term or condition in a contract for the supply or sale of electricity by a licensee to a relevant customer (whether entered into before or after the commencement of this section) is void to the extent that it is inconsistent with—

S. 36(1)(a)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004 s. 19.

(a) terms and conditions decided by the Commission that—

(i) specify the circumstances in which the supply of electricity to premises may be disconnected; and

S. 36(1)(a)(ii)  
amended by  
No. 62/2001  
s. 70(d).

(ii) require the licensee to provide information specified by the Commission about the rights and entitlements of customers; and

(iii) specify the circumstances in which the licensee requires access to premises of customers for the purpose of reading meters or otherwise; and

(iv) make provision for confidentiality of customer information; and

S. 36(1)(b)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004 s. 19.

(b) any other terms and conditions decided by the Commission and provided for in the licence of the licensee.

(1A) In deciding terms and conditions that specify the circumstances in which the supply of electricity to premises may be disconnected, the Commission must have regard to—

**S. 36(1A)**  
**inserted by**  
**No. 91/2004**  
**s. 8(1).**

- (a) the essential nature of the electricity supply; and
- (b) community expectations that ongoing access to electricity supply will be available; and
- (c) the principle that the electricity supply to premises should only be disconnected as a last resort.

(2) If a term or condition of a contract is void pursuant to subsection (1) because of an inconsistency with a term or condition referred to in subsection (1)(a) or (b), that term or condition referred to in subsection (1)(a) or (b) is deemed to form part of that contract in place of the void term or condition.

(3) The Governor in Council may, by Order published in the Government Gazette, declare that a person or class of persons specified in the Order is, for the purposes of this section, a relevant customer or class of relevant customers.

(4) An Order under subsection (3) may specify a class of persons by reference to all or any of the following—

- (a) the person authorised to sell the electricity;
- (b) the purpose for which the electricity is used;
- (c) the quantity of electricity used;
- (d) the period of use;
- (e) the place of supply;
- (f) any other specified factor relevant to the sale of electricity.

S. 36(5)  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004 s. 19.

(5) An Order under subsection (3) may confer powers and functions on, and leave any matter to be decided by, the Commission.

S. 36(5A)  
inserted by  
No. 106/2003  
s. 22(3),  
amended by  
No. 72/2010  
s. 48(Sch.  
item 8(6)).

(5A) Sections 78(2), 83, 84 and 85 of the Australian Consumer Law (Victoria) do not apply to a contract for the supply or sale of electricity to a relevant customer.

S. 36(5B)  
inserted by  
No. 106/2003  
s. 22(3),  
amended by  
Nos 75/2004  
s. 19, 72/2010  
s. 48(Sch.  
item 8(7)).

(5B) Section 82 of the Australian Consumer Law (Victoria) does not apply to a contract for the supply or sale of electricity to a relevant customer unless the terms and conditions decided for the purpose of subsection (1) require the inclusion of a cooling-off period in that contract.

S. 36(5C)  
inserted by  
No. 106/2003  
s. 22(3),  
amended by  
No. 72/2010  
s. 48(Sch.  
item 8(8)).

(5C) If section 82(3)(b) of the Australian Consumer Law (Victoria) applies to a contract for the supply or sale of electricity to a relevant customer then, for the purposes of that subsection, the relevant customer is deemed to have received the document evidencing the contract and the notice on the day on which the licensee is taken under that contract to have given the document and notice to the customer.

(6) In this section—

S. 36(6) def. of  
*cooling-off  
period*  
inserted by  
No. 106/2003  
s. 22(4).

*cooling-off period* means a period within which a person is entitled under a contract to cancel the contract;

*relevant customer* means a person, or a member of a class of persons, to whom an Order under subsection (3) applies.

\* \* \* \* \*

S. 36(7)  
amended by  
Nos 40/2003  
s. 17, 91/2004  
s. 8(2),  
55/2007 s. 8,  
repealed by  
No. 59/2008  
s. 10.

**36A Publication of tariffs, terms and conditions of sale of electricity (relevant published offers)**

S. 36A  
(Heading)  
amended by  
No. 59/2008  
s. 11(1).

S. 36A  
inserted by  
No. 91/2004  
s. 9.

(1) Without limiting the generality of section 20(2) or (3) or section 21, the conditions to which a licence to sell electricity issued to a specified retailer is subject include a condition requiring the specified retailer in specified circumstances—

S. 36A(1)  
substituted by  
No. 59/2008  
s. 11(2).

(a) to publish on its Internet site, in accordance with this section, details of the tariffs and terms and conditions on which that retailer sells electricity to small retail customers; and

(b) to, as soon as practicable after details of the tariffs, terms and conditions are published in accordance with paragraph (a), input those details into an Internet site nominated by the Minister so that the tariffs are able to be published on the Internet; and

S. 36A(1)(b)  
substituted by  
No. 3/2014  
s. 8(1).

(c) if an Internet site has not been nominated by the Minister for the purposes of paragraph (b), to, on the same day the retailer publishes the details of the tariffs, terms and conditions in accordance with paragraph (a), give a copy of those details to the Commission.

S. 36A(1)(c)  
inserted by  
No. 3/2014  
s. 8(1).

Electricity Industry Act 2000  
No. 68 of 2000  
Part 2—Regulation of electricity industry

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S. 36A(1A)  
inserted by  
No. 59/2008  
s. 11(2),  
amended by  
No. 3/2014  
s. 8(2).

(1A) The Commission must publish on its Internet site the details of the tariffs, terms and conditions it receives under subsection (1)(c) as soon as practicable after receiving those details.

(2) The Commission must prepare and issue guidelines for the purposes of this section specifying—

S. 36A(2)(a)  
amended by  
No. 59/2008  
s. 11(3).

(a) the manner of publication of the tariffs and terms and conditions, including the accessibility of the details of those tariffs and terms and conditions on a specified retailer's Internet site; and

(b) the nature of the details to be published; and

(c) any other matters that the Commission considers relevant.

(3) A specified retailer must comply with the guidelines issued under subsection (2) when complying with the licence condition in subsection (1).

(4) This section does not apply to tariffs and terms and conditions published under section 35.

S. 36A(5)  
repealed by  
No. 59/2008  
s. 11(4).

\* \* \* \* \*

S. 36A(6)  
amended by  
No. 55/2007  
s. 9,  
repealed by  
No. 59/2008  
s. 11(4).

\* \* \* \* \*

**37 Deemed contracts with former franchise customers**

(1) If a person—

- (a) was a franchise customer within the meaning of the **Electricity Industry Act 1993** immediately before 1 January 2001; and
- (b) has not entered into a new contract with a licensee which takes effect on or after that date—

there is deemed to be a contract between that person and the licensee of which the person was a customer immediately before that date for the supply and sale of electricity at the tariffs and on the terms and conditions determined and published by that licensee under section 35.

(2) The deemed contract continues until—

- (a) the contract is terminated; or
- (b) if the customer enters into a new contract for the purchase of electricity from the licensee in respect of the same premises, on the date of taking effect of that new contract—

whichever occurs first.

\* \* \* \* \*

S. 37  
amended by  
No. 40/2003  
s. 18,  
substituted by  
No. 91/2004  
s. 10.

\* \* \* \* \*

S. 37(3)  
amended by  
No. 55/2007  
s. 10,  
repealed by  
No. 59/2008  
s. 12.

S. 38  
amended by  
Nos 62/2001  
s. 70(d),  
75/2004 s. 20,  
repealed by  
No. 91/2004  
s. 11.

S. 39  
amended by  
No. 13/2001  
s. 4(1),  
substituted by  
No. 85/2001  
s. 7.

### **39 Deemed contracts for supply and sale for relevant customers**

(1) If a relevant customer commences to take supply of electricity at premises from the relevant licensee without having entered into a supply and sale contract with that licensee, there is deemed, on the commencement of that supply, to be a contract between that licensee and that customer for the supply and sale of electricity—

S. 39(1)(a)  
substituted by  
No. 91/2004  
s. 12(1).

(a) at the tariffs and on the terms and conditions determined and published by that licensee under section 35; and

S. 39(1)(b)  
amended by  
No. 75/2004  
s. 21(1).

(b) on the conditions decided and provided for by the Commission under subsection (5).

(2) If a relevant customer—

(a) commences to take supply of electricity at premises under a supply and sale contract with the relevant licensee; and

(b) that customer cancels the supply and sale contract within the cooling-off period relating to the contract; and

(c) that customer continues to take electricity from that licensee without entering into a further supply and sale contract with that licensee—

there is deemed, on the cancellation of the supply and sale contract, to be a contract between that licensee and that customer for the supply and sale of electricity—

S. 39(2)(d)  
substituted by  
No. 91/2004  
s. 12(2).

(d) at the tariffs and on the terms and conditions determined and published by that licensee under section 35; and

- (e) on the conditions decided and provided for by the Commission under subsection (5). **S. 39(2)(e) amended by No. 75/2004 s. 21(1).**
- (3) A deemed contract under subsection (2) is deemed to commence on the commencement of supply referred to in subsection (2)(a).
- (4) If a supply and sale contract referred to in subsection (2)(a) is an unsolicited consumer agreement, sections 84 and 85 of the Australian Consumer Law (Victoria) do not apply on the cancellation of that contract. **S. 39(4) substituted by No. 72/2010 s. 48(Sch. item 8(9)).**
- (5) Without limiting the generality of section 20, the Commission may decide, and provide for in the licence of a licensee, conditions setting out—
- (a) circumstances in which a licensee must continue to supply or sell electricity to a customer to whom the licensee supplies or sells electricity under a deemed contract under this section after that contract comes to an end in accordance with subsection (7)(d) or (e); and
- (b) events on the happening of which a deemed contract under this section may come to an end.
- (6) A condition referred to in subsection (5)(a) must provide for the tariff or tariffs and the terms and conditions for the continued supply or sale of electricity to be determined by the licensee.
- (6A) A person who is a relevant customer may be a party to a deemed contract under this section even if the person has previously been a party to a contract for the supply or sale of electricity to different premises on different terms and conditions with the same licensee or another licensee. **S. 39(6A) inserted by No. 91/2004 s. 12(3).**

- (7) A deemed contract under this section comes to an end—
- (a) if the contract is terminated; or
  - (b) if the customer enters into a new contract for the purchase of electricity from the licensee in respect of the same premises, on the date of taking effect of that new contract; or
  - (c) if the customer transfers to become the customer of another licensee; or
  - (d) at the end of 180 days after the day on which the deemed contract commences; or
  - (e) on the happening of an event decided and provided for by the Commission under subsection (5)(b)—

S. 39(7)(e)  
amended by  
No. 75/2004  
s. 21(1).

whichever occurs first.

- (8) Subsection (1) does not apply where the relevant customer referred to in that subsection commences to take the supply of electricity by fraudulent or illegal means.
- (9) Subsection (2) does not apply where the relevant customer referred to in that subsection takes the supply of electricity by fraudulent or illegal means after the cancellation of the supply and sale contract referred to in subsection (2)(a).
- (10) In this section—

S. 39(10)  
def. of  
*cooling-off  
period*  
amended by  
Nos 106/2003  
s. 22(5),  
72/2010  
s. 48(Sch.  
item 8(10)(a)).

*cooling-off period* means the period within which a relevant customer is entitled under a supply and sale contract or section 82 of the Australian Consumer Law (Victoria) to cancel the contract;

***relevant customer*** has the same meaning as in section 36;

***relevant licensee***, in relation to premises, means the licensee who is responsible for the electricity supplied at those premises for the purposes of settlement of the wholesale electricity market;

***supply and sale contract*** means a contract for the supply or sale of electricity, whether oral or in writing, or partly oral and partly in writing;

***unsolicited consumer agreement*** has the same meaning as in section 69 of the Australian Consumer Law (Victoria).

S. 39(10)  
def. of  
***supply and sale contract***  
amended by  
No. 72/2010  
s. 48(Sch.  
item 8(10)(b)).

S. 39(10)  
def. of  
***unsolicited consumer agreement***  
inserted by  
No. 72/2010  
s. 48(Sch.  
item 8(10)(c)).

\* \* \* \* \*

S. 39(11)  
amended by  
Nos 40/2003  
s. 19, 91/2004  
s. 12(4),  
55/2007 s. 11,  
repealed by  
No. 59/2008  
s. 13.

**39A Commission must report to Minister on electricity supply offers**

S. 39A  
inserted by  
No. 59/2008  
s. 14.

- (1) The Commission must by the end of every calendar year, and at other times the Minister directs in writing, prepare and give to the Minister a report that, for the reporting period, compares and assesses—

- (a) licensee standing offers, deemed standing offers in effect during the reporting period, and relevant published offers and other offers of retailers to supply and sell electricity that were available during the reporting period;
  - (b) variations to licensee standing offers, deemed standing offers, relevant published offers and other offers to supply and sell electricity during the reporting period.
- (2) A report under subsection (1)—
- (a) may include information about any trends in relation to variations to licensee standing offers, deemed standing offers, relevant published offers and other offers of retailers to supply and sell electricity over a period; and
  - (b) must also include any other information that the Minister, in writing, requires to be included.
- (3) A period referred to in subsection (2)(a) may be greater than the reporting period.
- (4) The Commission must publish a report under subsection (1) on its Internet site as soon as practicable after giving it to the Minister.
- (5) In this section—
- deemed standing offer*** means the tariffs and terms and conditions constituting a deemed contract for the supply and sale of electricity under section 37 or section 39;
- reporting period*** means the financial year ending in the calendar year in which the Commission must give its report to the Minister.

\* \* \* \* \*

S. 40  
amended by  
No. 13/2001  
s. 4(2),  
repealed by  
No. 85/2001  
s. 7.

#### **40A Deemed distribution contracts**

S. 40A  
inserted by  
No. 13/2001  
s. 5.

(1) A distribution company may from time to time, subject to the conditions of its licence, give notice of terms and conditions applying in respect of the distribution or supply of electricity by the distribution company to retail customers or a class of retail customers.

(2) The terms and conditions must be approved by the Commission before a notice is given under subsection (1).

S. 40A(2)  
amended by  
No. 62/2001  
s. 70(i)(i) (as  
amended by  
No. 11/2002  
s. 3(Sch. 1  
item 23)).

(3) Unless the Commission approves otherwise in a particular case, the terms and conditions must not be inconsistent with the Electricity Distribution Code published by the Commission in May 2012 as amended or remade from time to time.

S. 40A(3)  
amended by  
Nos 62/2001  
s. 70(i)(i)(ii) (as  
amended by  
No. 11/2002  
s. 3(Sch. 1  
item 23)),  
46/2014  
s. 3(1).

(3A) The Commission must approve terms and conditions that give effect to or are necessary to comply with an Order made under section 46D.

S. 40A(3A)  
inserted by  
No. 46/2014  
s. 3(2).

(4) The approved terms and conditions of which notice is given under this section—

(a) take effect on the day on which they are published in the Government Gazette; and

- (b) are binding on the distribution company and the retail customers to which they are expressed to apply.
- (5) A distribution company and a retail customer are deemed to have entered into a contract on the terms and conditions published under subsection (4) on a date determined in accordance with those terms and conditions.
- (6) A distribution company may from time to time vary any terms and conditions of which notice is given under this section.
- (7) This section applies to a variation under subsection (6) in the same manner as it applies to the making, approval and notification of the terms and conditions.
- (8) A distribution company, subject to the conditions of its licence, and a retail customer may by agreement in writing vary any of the terms and conditions of a deemed contract under subsection (5).
- (9) A deemed contract under subsection (5) may be terminated in accordance with its terms and conditions.
- (10) Nothing in this section affects any contract existing immediately before the commencement of section 5 of the **Electricity Industry Acts (Further Amendment) Act 2001** between a distribution company and a retail customer.
- (11) In this section *retail customer* in relation to a distribution company means a customer of a retailer to which the distribution company distributes or supplies electricity.

**40B Compensation for wrongful disconnection**

S. 40B  
inserted by  
No. 91/2004  
s. 13.

- (1) Without limiting the generality of section 20(2) or (3) or section 21, the conditions to which a licence to sell electricity is subject include a condition requiring the licensee to make a payment of the prescribed amount to a relevant customer in accordance with this section if the licensee—
  - (a) disconnects the supply of electricity to the premises of that customer; and
  - (b) fails to comply with the terms and conditions of the contract specifying the circumstances in which the supply of electricity to those premises may be disconnected.
- (1A) Despite subsection (1), if the relevant customer does not notify the licensee of the disconnection within 14 days after the disconnection, the maximum payment under a condition under subsection (1) is the prescribed capped amount.
- (2) A payment under a condition under subsection (1) may be made directly to the customer or by way of rebate on the customer's electricity bill.
- (3) A payment under a condition under subsection (1) must be made as soon as practicable after the supply of electricity is reconnected to the premises of the relevant customer.
- (4) Nothing in this section affects any other right any person or body may have to take action against a licensee in relation to a disconnection of a supply of electricity.

S. 40B(1A)  
inserted by  
No. 59/2011  
s. 34(1).

(5) In this section—

S. 40B(5)  
def. of  
*prescribed  
amount*  
amended by  
No. 49/2015  
s. 9.

*prescribed amount* means—

- (a) the amount prescribed by the regulations for the purposes of this section; or
- (b) if no amount is prescribed by the regulations, \$500 for each whole day that the supply of electricity is disconnected and a pro rata amount for any part of a day that the supply of electricity is disconnected;

S. 40B(5)  
def. of  
*prescribed  
capped  
amount*  
inserted by  
No. 59/2011  
s. 34(2).

*prescribed capped amount* means—

- (a) the amount prescribed by the regulations for the purposes of subsection (1A); or
- (b) if no amount is prescribed, \$3,500.00;

*relevant customer* has the same meaning as in section 36.

S. 40C  
inserted by  
No. 91/2004  
s. 13.

#### **40C Prohibition on fees for late payment**

- (1) A term or condition in a contract for the supply or sale of electricity by a licensee to a small retail customer (whether entered into before or after the commencement of this section) is void to the extent that it permits the licensee to charge the customer a fee or charge for late payment of an electricity bill.
- (2) Nothing in this section prevents a licensee from offering an incentive or rebate to a small retail customer for paying an electricity bill on or before the due date for payment.

- (3) This section applies despite anything to the contrary in any terms and conditions that form part or are deemed by this Act to form part of the contract between a licensee and a small retail customer.

**40D Regulation of exit fees**

S. 40D  
inserted by  
No. 91/2004  
s. 13.

- (1AA) Without limiting the generality of sections 20(2) or (3) or 21, the conditions to which a licence to sell electricity is subject include a condition prohibiting, on and after the commencement of section 10 of the **Energy Legislation Amendment (Consumer Protection) Act 2015**, the licensee from entering into a contract for the supply or sale of electricity between the licensee and a small retail customer that imposes an exit fee on the termination of the contract unless—
- (a) the contract is a fixed-term retail contract; and
  - (b) the following will not change during the term of the contract—
    - (i) any tariffs, charges and fees for electricity supplied under that contract;
    - (ii) any discount which applies to tariffs, charges and fees for electricity supplied under that contract;
    - (iii) any terms and conditions that apply to electricity supplied under that contract.

S. 40D(1AA)  
inserted by  
No. 49/2015  
s. 10(1).

Electricity Industry Act 2000  
No. 68 of 2000  
Part 2—Regulation of electricity industry

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S. 40D(1)  
amended by  
No. 49/2015  
s. 10(2).

(1) The Governor in Council may by Order published in the Government Gazette regulate the imposition by a licensee under a fixed-term retail contract of an exit fee that is not otherwise prohibited under subsection (1AA) on the termination of that contract.

(2) An Order under subsection (1) may specify terms and conditions applying to the imposition of exit fees.

S. 40D(3)  
substituted by  
No. 49/2015  
s. 10(3).

(3) An Order under subsection (1) may also provide that a fixed-term retail contract must include a condition providing that the small retail customer may terminate the contract by giving the required period of notice to the licensee.

S. 40D(4)  
amended by  
No. 49/2015  
s. 10(4).

(4) If an Order under subsection (1) requires the inclusion of a condition referred to in subsection (3) in a fixed-term retail contract, that condition is deemed to form part of that contract.

(5) Nothing in this section or an Order under this section prevents a licensee from offering an incentive or rebate to a small retail customer to remain a customer of the licensee.

(6) An Order under subsection (1) has effect from the date specified in the Order.

(7) Sections 53 and 54 of the **Essential Services Commission Act 2001** apply to an Order under subsection (1) as if the Order were a determination made by the Commission under that Act.

(8) This section applies despite anything to the contrary in any terms and conditions that form part or are deemed by this Act to form part of the contract between a licensee and a small retail customer.

(9) In this section—

*exit fee* means a fee or charge payable on the termination of a contract but does not include any fee or charge for electricity supplied under the contract;

*fixed-term retail contract* means a contract for the supply or sale of electricity between a licensee and a small retail customer that contains a term or condition that specifies—

S. 40D(9)  
def. of  
*fixed-term  
retail contract*  
inserted by  
No. 49/2015  
s. 10(5).

- (a) the date on which the contract will end;  
or
- (b) a method for calculating the date on which the contract will end and which is ascertainable at the time the contract is entered;

*required period of notice* means the longer of—

- (a) the period of notice agreed between the licensee and the small retail customer;  
and
- (b) the period of notice specified in an Order under subsection (1).

#### **40E Regulation of pre-payment meters**

S. 40E  
inserted by  
No. 91/2004  
s. 13.

- (1) The Governor in Council may by Order published in the Government Gazette prohibit or regulate the implementation by a licensee of a pre-payment meter scheme in respect of the licensee's small retail customers.
- (2) An Order under subsection (1) regulating the implementation of a pre-payment meter scheme may specify terms and conditions applying to that scheme.

- (3) An Order under subsection (1) has effect from the date specified in the Order.
- (4) Sections 53 and 54 of the **Essential Services Commission Act 2001** apply to an Order under subsection (1) as if the Order were a determination made by the Commission under that Act.
- (5) This section applies despite anything to the contrary in any terms and conditions that form part or are deemed by this Act to form part of the contract between a licensee and a small retail customer.
- (6) The Minister must cause a copy of each Variation Order to be laid before each House of Parliament within 6 sitting days of that House following the making of the Order.
- (7) A Variation Order is subject to disallowance by a House of Parliament, and sections 23, 24 and 25 of the **Subordinate Legislation Act 1994** apply as if the Variation Order were a statutory rule within the meaning of that Act.
- (8) In this section—

*pre-payment meter* means a meter that allows electricity to be sold or supplied under an arrangement that allows the customers to make full payment for the electricity before it is consumed;

*Variation Order* means an Order made in substitution for or amending or revoking an Order made under subsection (1).

**Division 5A—Terms and conditions  
for the purchase of small renewable  
energy generation electricity**

Pt 2 Div. 5A  
(Heading and  
ss 40F–40N)  
inserted by  
No. 35/2007  
s. 3.

**40F Definitions**

S. 40F  
inserted by  
No. 35/2007  
s. 3.

(1) In this Division—

*2006–2010 distribution pricing determination*  
has the same meaning as in the **National  
Electricity (Victoria) Act 2005**;

S. 40F(1)  
def. of  
*2006–2010  
distribution  
pricing  
determination*  
inserted by  
No. 41/2009  
s. 4(1).

*biomass energy generation facility* means a  
generation facility that generates electricity  
by utilising energy from the combustion of—

- (a) biomass; or
- (b) biogas;

*declared scheme capacity day* means the day  
declared by notice under section 40FE;

S. 40F(1)  
def. of  
*declared  
scheme  
capacity day*  
inserted by  
No. 41/2009  
s. 4(1).

*distributor obligation period* means the period—

- (a) commencing on the scheme start day;  
and
- (b) ending on the day that is the last day a  
distribution company conveys any  
qualifying solar energy generation  
electricity along a distribution system  
operated by that distribution company;

S. 40F(1)  
def. of  
*distributor  
obligation  
period*  
inserted by  
No. 41/2009  
s. 4(1).

S. 40F(1)  
def. of  
*distributor*  
*TFiT*  
*obligation*  
*period*  
inserted by  
No. 64/2011  
s. 3(1).

*distributor TFiT obligation period* means the period—

- (a) commencing on the TFiT scheme start day; and
- (b) ending on the day that is the last day a distribution company conveys any TFiT scheme electricity along a distribution system operated by that distribution company;

S. 40F(1)  
def. of  
*ESC*  
*determined*  
*general feed-*  
*in terms and*  
*conditions*  
inserted by  
No. 41/2009  
s. 4(1).

*ESC determined general feed-in terms and conditions* means prices, terms and conditions determined under section 40L(1)(a);

S. 40F(1)  
def. of  
*ESC*  
*determined*  
*premium*  
*solar feed-in*  
*terms and*  
*conditions*  
inserted by  
No. 41/2009  
s. 4(1).

*ESC determined premium solar feed-in terms and conditions* means terms and conditions determined under section 40L(1)(b);

S. 40F(1)  
def. of  
*ESC*  
*determined*  
*prices, terms*  
*and*  
*conditions*  
repealed by  
No. 41/2009  
s. 4(5).

\* \* \* \* \*

S. 40F(1)  
def. of  
*ESC*  
*determined*  
*TFiT scheme*  
*terms and*  
*conditions*  
inserted by  
No. 64/2011  
s. 3(1).

*ESC determined TFiT scheme terms and conditions* means terms and conditions determined under section 40L(1)(c);

***ESC recommended general feed-in terms and conditions*** means prices, terms and conditions recommended, and contained in, a report under section 40J(2A)(a);

S. 40F(1)  
def. of  
*ESC recom-  
mended  
general feed-  
in terms and  
conditions*  
inserted by  
No. 41/2009  
s. 4(1).

***ESC recommended premium solar feed-in terms and conditions*** means terms and conditions recommended, and contained in, a report under section 40J(2A)(b);

S. 40F(1)  
def. of  
*ESC recom-  
mended  
premium  
solar feed-in  
terms and  
conditions*  
inserted by  
No. 41/2009  
s. 4(1).

\* \* \* \* \*

S. 40F(1)  
def. of  
*ESC recom-  
mended  
prices, terms  
and  
conditions*  
repealed by  
No. 41/2009  
s. 4(5).

***ESC recommended TFiT scheme terms and conditions*** means terms and conditions recommended, and contained in, a report under section 40J(2A)(b);

S. 40F(1)  
def. of  
*ESC recom-  
mended TFiT  
scheme terms  
and  
conditions*  
inserted by  
No. 64/2011  
s. 3(1).

***general renewable energy feed-in terms and conditions*** has the meaning given by section 40FB;

S. 40F(1)  
def. of  
*general  
renewable  
energy feed-in  
terms and  
conditions*  
inserted by  
No. 41/2009  
s. 4(1).

***hydro generation facility*** means a generation facility that generates electricity by utilising the energy from moving water;

S. 40F(1)  
def. of  
***non-complying licensee***  
substituted by  
No. 41/2009  
s. 4(2).

***non-complying licensee*** means—

- (a) a relevant licensee that has not complied with a condition set out in section 40FF(1) or 40G(1); or
- (b) a small retail licensee that has not complied with the condition set out in section 40FG(3);

***non-pool electricity*** means electricity that is supplied other than through the wholesale electricity market;

S. 40F(1)  
def. of  
***premium solar feed-in credit***  
inserted by  
No. 41/2009  
s. 4(1).

***premium solar feed-in credit*** has the meaning given by section 40FA(2)(a);

S. 40F(1)  
def. of  
***premium solar feed-in tariff period***  
inserted by  
No. 41/2009  
s. 4(1).

***premium solar feed-in tariff period***, for a qualifying customer, has the meaning given by section 40FC;

S. 40F(1)  
def. of  
***premium solar feed-in tariff scheme***  
inserted by  
No. 35/2013  
s. 3(3).

***premium solar feed-in tariff scheme*** means the amendments made to this Division by the **Electricity Industry Amendment (Premium Solar Feed-in Tariff) Act 2009**;

***premium solar feed-in tariff terms and conditions*** has the meaning given by section 40FA;

S. 40F(1)  
def. of  
***premium solar feed-in tariff terms and conditions***  
inserted by  
No. 41/2009  
s. 4(1).

***publish***, for sections 40FF, 40FG and 40G, means publish—

S. 40F(1)  
def. of  
***publish***  
inserted by  
No. 41/2009  
s. 4(1).

- (a) in the Government Gazette; and
- (b) on the licensee's Internet site;

***qualifying customer***, of a relevant licensee or small retail licensee, means a person who—

S. 40F(1)  
def. of  
***qualifying customer***  
inserted by  
No. 41/2009  
s. 4(1).

- (a) purchases electricity from that relevant licensee or small retail licensee; and
- (b) engages in the generation of electricity—
  - (i) at a property that the person occupies as their principal place of residence by means of one qualifying solar energy generating facility at the property; or
  - (ii) at one or more properties—
    - (A) that the person occupies, otherwise than as a place of residence, by means of one qualifying solar energy generating facility at each of those properties; and
    - (B) at which the person's annual consumption rate of electricity is 100 megawatt hours or less; and

- (c) has been exempted by Order under section 17 from the requirement to hold a licence in respect of the generation of electricity for supply and sale;

S. 40F(1)  
def. of  
*qualifying solar energy generating facility*  
inserted by  
No. 41/2009  
s. 4(1),  
amended by  
No. 55/2010  
s. 11(1).

*qualifying solar energy generating facility* means a photovoltaic generation facility that—

- (a) has an installed or name-plate generating capacity of 5 kilowatts or less; and  
(b) is connected to a distribution system;

S. 40F(1)  
def. of  
*qualifying solar energy generation electricity*  
inserted by  
No. 41/2009  
s. 4(1).

*qualifying solar energy generation electricity* means electricity that a qualifying customer generates and does not use;

S. 40F(1)  
def. of  
*referred prices, terms and conditions*  
repealed by  
No. 41/2009  
s. 4(5).

\* \* \* \* \*

S. 40F(1)  
def. of  
*referred terms and conditions*  
inserted by  
No. 41/2009  
s. 4(1),  
amended by  
No. 35/2013  
s. 3(1).

*referred terms and conditions* means general renewable energy feed-in terms and conditions, premium solar feed-in tariff terms and conditions or TFiT scheme terms and conditions referred to the Commission under section 40I(1)(a) for assessment;

***relevant generator*** means—

- (a) a generation company; or
- (b) a person engaging in the generation of electricity for supply or sale that has been exempted by Order under section 17 from the requirement to hold a licence in respect of that activity;

S. 40F(1)  
def. of  
***relevant generator***  
amended by  
No. 41/2009  
s. 4(3).

***relevant licensee*** means a person that—

- (a) holds a licence to sell electricity; and
- (b) sells electricity to more than 5000 customers;

***scheme start day*** means the day on which section 5 of the **Electricity Industry Amendment (Premium Solar Feed-in Tariff) Act 2009** comes into operation;

S. 40F(1)  
def. of  
***scheme start day***  
inserted by  
No. 41/2009  
s. 4(1).

***small renewable energy generation electricity*** means non-pool electricity supplied by a relevant generator from a small renewable energy generation facility operated by that generator;

***small renewable energy generation facility*** means a facility of the following kind, connected to a distribution system, that generates electricity and has an installed or name-plate generating capacity of less than 100 kilowatts—

- (a) a wind energy generation facility;
- (b) a solar energy generation facility;
- (c) a hydro generation facility;
- (d) a biomass energy generation facility;

S. 40F(1)  
def. of  
***small renewable energy generation facility***  
amended by  
Nos 41/2009  
s. 4(4),  
64/2011  
s. 3(2),  
35/2013  
s. 3(2).

(e) a facility or class of facility specified for the purposes of this definition under subsection (2)—

but does not include a qualifying solar energy generating facility or a TFiT scheme generating facility that is connected to a distribution system under the premium solar feed-in tariff scheme or TFiT scheme;

S. 40F(1)  
def. of  
*small retail licensee*  
inserted by  
No. 41/2009  
s. 4(1).

*small retail licensee* means a person that—

- (a) holds a licence to sell electricity; and
- (b) sells electricity to 5000 or less customers;

*solar energy generation facility* means a generation facility that generates electricity by converting solar energy into electricity;

S. 40F(1)  
def. of  
*statutory minimum conditions*  
inserted by  
No. 41/2009  
s. 4(1).

*statutory minimum conditions* means the conditions specified under section 40FA(2);

S. 40F(1)  
def. of  
*statutory minimum TFiT conditions*  
inserted by  
No. 64/2011  
s. 3(1).

*statutory minimum TFiT conditions* means the conditions specified under section 40FAB(2);

S. 40F(1)  
def. of  
*TFiT scheme*  
inserted by  
No. 35/2013  
s. 3(3).

*TFiT scheme* means the amendments made to this Division by the **Electricity Industry Amendment (Transitional Feed-in Tariff Scheme) Act 2011**;

***TFiT scheme credit*** has the meaning given by section 40FAB(2)(a);

S. 40F(1)  
def. of  
*TFiT scheme credit*  
inserted by  
No. 64/2011  
s. 3(1).

***TFiT scheme customer***, of a relevant licensee or small retail licensee, means a person who—

S. 40F(1)  
def. of  
*TFiT scheme customer*  
inserted by  
No. 64/2011  
s. 3(1).

- (a) purchases electricity from that relevant licensee or small retail licensee; and
- (b) engages in the generation of electricity on or after the TFiT scheme start day—
  - (i) at a property that the person occupies as their principal place of residence by means of one TFiT scheme generating facility at the property; or
  - (ii) at one or more properties—
    - (A) that the person occupies, otherwise than as a place of residence, by means of one TFiT scheme generating facility at each of those properties; and
    - (B) at which the person's annual consumption rate of electricity is 100 megawatt hours or less; and
- (c) has been exempted by Order under section 17 from the requirement to hold a licence in respect of the generation of electricity for supply and sale;

S. 40F(1)  
def. of  
*TFiT scheme  
electricity*  
inserted by  
No. 64/2011  
s. 3(1).

*TFiT scheme electricity* means electricity that a TFiT scheme customer generates on or after the TFiT scheme start day and does not use;

S. 40F(1)  
def. of  
*TFiT scheme  
end day*  
inserted by  
No. 64/2011  
s. 3(1).

*TFiT scheme end day* means the day declared by notice under section 40FEA(1);

S. 40F(1)  
def. of  
*TFiT scheme  
generating  
facility*  
inserted by  
No. 64/2011  
s. 3(1).

*TFiT scheme generating facility* means a photovoltaic generation facility that—

- (a) has an installed or name-plate generating capacity of 5 kilowatts or less; and
- (b) is connected to a distribution system on or after the TFiT scheme start day;

S. 40F(1)  
def. of  
*TFiT scheme  
period*  
inserted by  
No. 64/2011  
s. 3(1).

*TFiT scheme period*, for a TFiT scheme customer, has the meaning given by section 40FCA;

S. 40F(1)  
def. of  
*TFiT scheme  
start day*  
inserted by  
No. 64/2011  
s. 3(1).

*TFiT scheme start day* means the day on which section 3 of the **Electricity Industry Amendment (Transitional Feed-in Tariff Scheme) Act 2011** comes into operation;

S. 40F(1)  
def. of  
*TFiT scheme  
terms and  
conditions*  
inserted by  
No. 64/2011  
s. 3(1).

*TFiT scheme terms and conditions* has the meaning given by section 40FAB;

**wind energy generation facility** means a generation facility that generates electricity by converting wind energy into electricity.

- (2) The Governor in Council, by Order published in the Government Gazette, may, for the purposes of paragraph (e) of the definition of **small renewable energy generation facility**, specify a facility or class of facility that generates electricity in any way as a small renewable energy generation facility.

S. 40F(2)  
amended by  
No. 35/2013  
s. 3(4).

**40FA Meaning of premium solar feed-in tariff terms and conditions**

S. 40FA  
inserted by  
No. 41/2009  
s. 5.

- (1) Premium solar feed-in tariff terms and conditions are terms and conditions comprising an offer under which a relevant licensee or small retail licensee will purchase from a qualifying customer of that licensee qualifying solar energy generation electricity during the premium solar feed-in tariff period for that customer.
- (2) Premium solar feed-in tariff terms and conditions must, as a minimum, include terms and conditions under which—
- (a) an amount not less than \$0.60 per kilowatt-hour is credited against the charges payable to the relevant licensee or small retail licensee by the qualifying customer for electricity the licensee supplies to that customer during the premium solar feed-in tariff period for that customer (a **premium solar feed-in credit**); and
- (b) a premium solar feed-in credit that arises during a period of supply of electricity to the qualifying customer during the premium solar feed-in tariff period for that customer is included in the electricity bill of that

- customer that relates to that period of supply;  
and
- (c) if, in a period of supply of electricity to the qualifying customer during the premium solar feed-in tariff period for that customer, a premium solar feed-in credit exceeds the amount owed by that customer for electricity supplied to that customer in that period of supply, the excess premium solar feed-in credit amount is—
- (i) credited against the charges payable to the relevant licensee or small retail licensee by that customer for electricity the licensee supplies to that customer in the next period of supply of electricity to that customer; and
  - (ii) included in that customer's electricity bill that relates to that period of supply of electricity; and
- (d) any excess premium solar feed-in credit amount referred to in paragraph (c) is extinguished on the first of the following to occur—
- (i) the day that is 12 months after the day—
    - (A) a premium solar feed-in credit first arises in respect of the qualifying customer; or
    - (B) a premium solar feed-in credit first arises in respect of the qualifying customer after an excess premium solar feed-in credit amount referred to in paragraph (c) is extinguished under this paragraph—
- as the case requires;

- (ii) the day the contract for the supply of electricity by the relevant licensee or small retail licensee to the qualifying customer ends;
  - (iii) the day that is the last day of the premium solar feed-in tariff period for the qualifying customer; and
- (e) any contract between the relevant licensee or small retail licensee and the qualifying customer for the purchase of qualifying solar energy generation electricity by the licensee during the premium solar feed-in tariff period for that customer is conditional on that customer giving the licensee details of that customer's principal place of residence.

**40FAB Meaning of transitional feed-in scheme tariff terms and conditions**

S. 40FAB  
inserted by  
No. 64/2011  
s. 4.

- (1) TFiT scheme terms and conditions are terms and conditions comprising an offer under which a relevant licensee or small retail licensee will purchase from a TFiT scheme customer of that licensee TFiT scheme electricity during the TFiT scheme period for that customer.
- (2) TFiT scheme terms and conditions must, as a minimum, include terms and conditions under which—
  - (a) an amount not less than \$0.25 per kilowatt-hour is credited against the charges payable to the relevant licensee or small retail licensee by the TFiT scheme customer for electricity the licensee supplies to that customer during the TFiT scheme period for that customer (a *TFiT scheme credit*); and
  - (b) a TFiT scheme credit that arises during a period of supply of electricity to the TFiT scheme customer during the TFiT scheme

- period for that customer is included in the electricity bill of that customer that relates to that period of supply; and
- (c) if, in a period of supply of electricity to the TFiT scheme customer during the TFiT scheme period for that customer, a TFiT scheme credit exceeds the amount owed by that customer for electricity supplied to that customer in that period of supply, the excess TFiT scheme credit amount is—
- (i) credited against the charges payable to the relevant licensee or small retail licensee by that customer for electricity the licensee supplies to that customer in the next period of supply of electricity to that customer; and
  - (ii) included in that customer's electricity bill that relates to that period of supply of electricity; and
- (d) any excess TFiT scheme credit amount referred to in paragraph (c) is extinguished on the first of the following to occur—
- (i) the day that is 12 months after the day—
    - (A) a TFiT scheme credit first arises in respect of the TFiT scheme customer; or
    - (B) a TFiT scheme credit first arises in respect of the TFiT scheme customer after an excess TFiT scheme credit amount referred to in paragraph (c) is extinguished under this paragraph—
- as the case requires;

- (ii) the day the contract for the supply of electricity by the relevant licensee or small retail licensee to the TFiT scheme customer ends;
  - (iii) the day that is the last day of the TFiT scheme period for the TFiT scheme customer; and
- (e) any contract between the relevant licensee or small retail licensee and the TFiT scheme customer for the purchase of TFiT scheme electricity by the licensee during the TFiT scheme period for that customer is conditional on that customer giving the licensee details of that customer's principal place of residence.

**40FB Meaning of general renewable energy feed-in terms and conditions**

- (1) General renewable energy feed-in terms and conditions are the prices, terms and conditions comprising an offer under which a relevant licensee will purchase, from a relevant generator, small renewable energy generation electricity.
- (2) Without limiting subsection (1), on and after the commencement of section 4 of the **Energy Legislation Amendment (Feed-in Tariffs and Other Matters) Act 2013**, general renewable energy feed-in terms and conditions must, as a minimum, include terms and conditions under which—
  - (a) an amount, specified for a financial year under section 40FBA, is credited against the charges payable to the relevant licensee by a customer who is a relevant generator for electricity the licensee supplies to the customer (a *general renewable energy credit*); and

S. 40FB inserted by No. 41/2009 s. 5, amended by No. 35/2013 s. 4 (ILA s. 39B(1)).

S. 40FB(2) inserted by No. 35/2013 s. 4.

S. 40FB(2)(a) amended by No. 1/2017 s. 3.

- (b) a general renewable energy credit that arises during a period of supply of electricity to that customer is included in the electricity bill of that customer that relates to that period of supply; and
- (c) if, in a period of supply of electricity to the customer, a general renewable energy credit exceeds the amount owed by that customer for electricity supplied to that customer in that period of supply, the excess general renewable energy credit amount is—
  - (i) credited against the charges payable to the relevant licensee by that customer for electricity the licensee supplies to that customer in the next period of supply of electricity to that customer; and
  - (ii) included in that customer's electricity bill that relates to that period of supply of electricity; and
- (d) any excess general renewable energy credit amount referred to in paragraph (c) is extinguished on the day the contract for the supply of electricity by the relevant licensee to the customer ends.

S. 40FBA  
inserted by  
No. 35/2013  
s. 5,  
substituted by  
No. 1/2017  
s. 4.

**40FBA Rates for purchases of small renewable energy generation electricity**

For the purposes of section 40FB(2)(a), in each financial year the amount to be credited against the charges payable to a relevant licensee by a customer who is a relevant generator is determined at—

- (a) the rate or rates determined by the Commission under section 40FBB for that financial year; or

- (b) if the Commission has not determined one or more rates under section 40FBB for that financial year—the rate or rates that applied immediately before the commencement of that financial year.

**40FBB Commission to determine one or more rates for purchases of small renewable energy generation electricity**

S. 40FBB  
(Heading)  
amended by  
No. 1/2017  
s. 5(1).

S. 40FBB  
inserted by  
No. 35/2013  
s. 5.

- (1) The Commission may determine one or more rates for the purposes of section section 40FBA(a).

S. 40FBB(1)  
amended by  
No. 1/2017  
s. 5(2).

- (2) A rate determined under subsection (1) must be—

S. 40FBB(2)  
substituted by  
No. 1/2017  
s. 5(3).

- (a) determined not later than 28 February in the financial year preceding the financial year in which it is to apply; and
- (b) published in the Government Gazette not later than that date.

- (3) In determining a rate for the purposes of section 40FBA(a), the Commission must have regard to—

S. 40FBB(3)  
amended by  
No. 1/2017  
s. 5(4)(a).

- (a) prices of electricity in the wholesale electricity market; and
- (b) any distribution and transmission losses avoided in Victoria by the supply of small renewable energy generation electricity; and

S. 40FBB(3)(b)  
amended by  
No. 1/2017  
s. 5(4)(b).

S. 40FBB(3)(c)  
inserted by  
No. 1/2017  
s. 5(4)(c).

- (c) the following avoided costs—
- (i) the avoided social cost of carbon;
  - (ii) the avoided human health costs attributable to a reduction in air pollution.

S. 40FBB(3A)  
inserted by  
No. 1/2017  
s. 5(5).

- (3A) If an Order under subsection (3B) is in effect, the avoided costs that the Commission must have regard to under subsection (3) are the avoided costs determined in accordance with the methodology or factor specified in the Order for the relevant avoided costs.

S. 40FBB(3B)  
inserted by  
No. 1/2017  
s. 5(5).

- (3B) The Governor in Council, by Order published in the Government Gazette, may specify a methodology or factor for the determination of—
- (a) the avoided social cost of carbon; or
  - (b) the avoided human health costs attributable to a reduction in air pollution.
- (4) A determination of the Commission under this section is not a determination for the purposes of the **Essential Services Commission Act 2001**.

S. 40FC  
inserted by  
No. 41/2009  
s. 5.

**40FC Meaning of premium solar feed-in tariff period**

- (1) The premium solar feed-in tariff period for a qualifying customer is the period—
- (a) commencing on the scheme start day; and

S. 40FC(1)(a)  
amended by  
No. 64/2011  
s. 22.

- (b) ending on the earlier of—
  - (i) the fifteenth anniversary of the scheme start day; or
  - (ii) the declared scheme capacity day.

(2) However, if there is a declared scheme capacity day, the premium solar feed-in tariff period for a qualifying customer who has a contract in operation for the supply of qualifying solar energy generation electricity to a relevant licensee or small retail licensee immediately before that day, and has been credited with a premium solar feed-in credit at any time before that day, is the period—

(a) commencing on the scheme start day; and

(b) ending on—

(i) the fifteenth anniversary of the scheme start day; or

(ii) if, after 31 December 2012, the customer modifies their qualifying solar energy generating facility so that its installed or name-plate generating capacity is more than its capacity on 31 December 2012, the later of—

(A) the day on which section 6 of the **Energy Legislation Amendment (Feed-in Tariffs and Other Matters) Act 2013** comes into operation; or

(B) the day on which that modification is made—

whichever occurs first.

#### **40FCA Meaning of TFiT scheme period**

(1) The TFiT scheme period for a TFiT scheme customer is the period—

(a) commencing on the TFiT scheme start day; and

S. 40FC(2)(b)  
substituted by  
No. 35/2013  
s. 6.

S. 40FCA  
inserted by  
No. 64/2011  
s. 5.

(b) ending on the earlier of—

(i) the fifth anniversary of the TFiT scheme start day; or

(ii) the TFiT scheme end day.

(2) However, if there is a TFiT scheme end day, the TFiT scheme period for a TFiT scheme customer who has a contract in operation for the supply of TFiT scheme electricity to a relevant licensee or small retail licensee immediately before that day, and has been credited with a TFiT scheme credit at any time before that day, is the period—

(a) commencing on the TFiT scheme start day; and

(b) ending on—

(i) the fifth anniversary of the TFiT scheme start day; or

(ii) if, after 31 December 2012, the customer modifies their TFiT scheme generating facility so that its installed or name-plate generating capacity is more than its capacity on 31 December 2012, the later of—

(A) the day on which section 7 of the **Energy Legislation Amendment (Feed-in Tariffs and Other Matters) Act 2013** comes into operation; or

(B) the day on which that modification is made—

whichever occurs first.

S. 40FCA(2)(b)  
substituted by  
No. 35/2013  
s. 7.

**40FD Application of premium solar feed-in tariff and TFiT scheme terms and conditions obligations**

Sections 40FF(1) and 40FG(3) are not to be taken to require a relevant licensee or small retail licensee to pay to a qualifying customer of that licensee any money (as cash, by cheque or otherwise) instead of the whole or any part of a premium solar feed-in credit or a TFiT scheme credit (as the case requires).

S. 40FD  
(Heading)  
amended by  
No. 64/2011  
s. 6(1).  
S. 40FD  
inserted by  
No. 41/2009  
s. 5,  
amended by  
No. 64/2011  
s. 6(2).

**40FE Minister may declare the declared scheme capacity day**

- (1) The Minister, by notice published in the Government Gazette, may declare a day to be the declared scheme capacity day.
- (2) The Minister may declare a day under subsection (1) only if—
  - (a) the Minister is satisfied that the aggregate of the installed or name-plate generating capacity of qualifying solar energy generating facilities is equal to or greater than 100 megawatts; or
  - (b) the Minister has estimated that the average cost per customer of electricity per year arising out of the operation of the premium solar feed-in tariff scheme is \$10 or more—whichever occurs first.

S. 40FE  
inserted by  
No. 41/2009  
s. 5.

\* \* \* \* \*

S. 40FE(3)  
repealed by  
No. 35/2013  
s. 8.

**Note**

See also the definition of *premium solar feed-in tariff period* in section 40F(1).

S. 40FEA  
inserted by  
No. 64/2011  
s. 7.

**40FEA Minister may declare TFiT scheme end day**

- (1) The Minister, by notice published in the Government Gazette, may declare a day to be the TFiT scheme end day.
- (2) The Minister may declare a day under subsection (1) if—
  - (a) the Minister is satisfied that the aggregate of the installed or name-plate generating capacity of TFiT scheme generating facilities is equal to or greater than 75 megawatts; or
  - (b) the Minister has estimated that the average cost per customer of electricity per year arising out of the operation of the TFiT scheme is \$5 or more; or
  - (c) the Minister considers it appropriate to do so—

whichever occurs first.

S. 40FEA(3)  
repealed by  
No. 35/2013  
s. 8.

\* \* \* \* \*

**Note**

See also the definition of *TFiT scheme period* in section 40F(1).

S. 40FF  
(Heading)  
amended by  
No. 64/2011  
s. 8(1).

**40FF Relevant licensee condition relating to premium solar feed-in tariff and TFiT scheme tariff**

S. 40FF  
inserted by  
No. 41/2009  
s. 5.

S. 40FF(1)  
amended by  
No. 64/2011  
s. 8(2).

- (1) Without limiting the generality of section 20(2) or 20(3) or section 21, but subject to this Division, the conditions to which a licence to sell electricity held by a relevant licensee is subject include a condition requiring the relevant licensee to

publish premium solar feed-in tariff terms and conditions or TFiT scheme terms and conditions (as the case requires).

- (2) A relevant licensee that publishes premium solar feed-in tariff terms and conditions or TFiT scheme terms and conditions as required by the condition set out in subsection (1) must give a copy of those terms and conditions to the Minister within 7 days after publishing them.

S. 40FF(2)  
amended by  
No. 64/2011  
s. 8(3).

**40FG Small retail licensees may offer to purchase qualifying solar energy generation electricity or TFiT scheme electricity**

S. 40FG  
(Heading)  
amended by  
No. 64/2011  
s. 9(1).  
S. 40FG  
inserted by  
No. 41/2009  
s. 5.

- (1) A small retail licensee may offer to purchase—
- (a) qualifying solar energy generation electricity from a qualifying customer during the premium solar feed-in tariff period for the qualifying customer;
- (b) TFiT scheme electricity from a TFiT scheme customer during the TFiT scheme period for the TFiT scheme customer.

S. 40FG(1)  
substituted by  
No. 64/2011  
s. 9(2).

- (2) If a small retail licensee decides to do so, the small retail licensee must publish a notice to that effect.

- (3) Without limiting the generality of section 20(2) or 20(3) or section 21, but subject to this Division, on and after the day a notice is published in the Government Gazette under subsection (2), the conditions to which a licence to sell electricity held by a small retail licensee is subject include a condition requiring the small retail licensee to publish premium solar feed-in tariff terms and

S. 40FG(3)  
amended by  
No. 64/2011  
s. 9(3).

conditions or TFiT scheme terms and conditions (as the case requires).

S. 40FG(4)  
amended by  
No. 64/2011  
s. 9(4).

- (4) A small retail licensee that publishes premium solar feed-in tariff terms and conditions or TFiT scheme terms and conditions under subsection (2) must give a copy of those terms and conditions to the Minister within 7 days after publishing them.
- (5) If a small retail licensee decides to stop purchasing qualifying solar energy generation electricity from a qualifying customer during the premium solar feed-in tariff period for the qualifying customer, it may publish a notice to that effect.

S. 40FG(5A)  
inserted by  
No. 64/2011  
s. 9(5).

- (5A) If a small retail licensee decides to stop purchasing TFiT scheme electricity from a TFiT scheme customer during the TFiT scheme period for the TFiT scheme customer, it may publish a notice to that effect.

S. 40FG(6)  
amended by  
No. 64/2011  
s. 9(6).

- (6) On and after the day a small retail licensee publishes a notice under subsection (5) or (5A), subsection (3) ceases to apply to that small retail licensee.

S. 40FG(7)  
amended by  
No. 64/2011  
s. 9(6).

- (7) To avoid doubt, the publication by a small retail licensee of a notice under subsection (5) or (5A) does not prevent the small retail licensee from publishing another notice under subsection (2) to which this section will apply.

S. 40FH  
(Heading)  
amended by  
No. 64/2011  
s. 10(1).

**40FH Distribution company licences to require credits for qualifying solar energy generation electricity and TFiT scheme electricity**

S. 40FH  
inserted by  
No. 41/2009  
s. 5.

- (1) This section applies to a distribution company—
- (a) whose licence to distribute electricity includes a condition of the kind provided for under section 21(d) (a *use of system agreement condition*); and

(b) that, in accordance with the use of system agreement condition, has entered into an agreement of the kind contemplated by section 21(d) with a relevant licensee or small retail licensee (a *use of system agreement*).

(2) Without limiting the generality of section 20(2) or 20(3) or section 21, the licence to distribute electricity held by that distribution company is deemed to include a condition requiring that distribution company to include in a use of system agreement with a relevant licensee or small retail licensee, a condition that credits to the relevant licensee or small retail licensee the amount of \$0.60 per kilowatt-hour for qualifying solar energy generation electricity that is conveyed along a distribution system operated by that distribution company during the distributor obligation period.

(2A) Without limiting the generality of section 20(2) or (3) or section 21, the licence to distribute electricity held by that distribution company is deemed to include a condition requiring that distribution company to include in a use of system agreement with a relevant licensee or small retail licensee, a condition that credits to the relevant licensee or small retail licensee the amount of \$0.25 per kilowatt-hour for TFiT scheme electricity that is conveyed along a distribution system operated by that distribution company during the distributor TFiT obligation period.

S. 40FH(2A)  
inserted by  
No. 64/2011  
s. 10(2).

**40FI Pass through of costs associated with credits for qualifying solar energy generation electricity**

S. 40FI  
inserted by  
No. 41/2009  
s. 5.

(1) Despite anything to the contrary in this Act, the **Essential Services Commission Act 2001** or the 2006–2010 distribution pricing determination, the giving of a credit under a solar feed-in credit

obligation is to be taken to also be a relevant pass through event that has a material financial impact on the distribution company for the purposes of the 2006–2010 distribution pricing determination during the distributor obligation period.

(2) In this section—

*solar feed-in credit obligation* means an obligation on a distribution company arising because of section 40FH(2).

S. 40FJ  
inserted by  
No. 41/2009  
s. 5.

**40FJ Distribution companies to report annually on connected qualifying solar energy generating facilities**

S. 40FJ(1)  
substituted by  
No. 64/2011  
s. 11(1).

- (1) Without limiting the generality of section 20(2) or (3) or section 21, a licence to distribute electricity is deemed to include a condition requiring the distribution company holding the licence to, within one month after each reporting day, give to the Minister a report that specifies—
- (a) the number of qualifying solar energy generating facilities connected, on the reporting day, to a distribution system operated by that licensee; and
  - (b) the aggregate installed or name-plate generating capacity of qualifying solar energy generating facilities connected, on the reporting day, to a distribution system operated by that licensee; and
  - (c) the total amount of qualifying solar energy generation electricity conveyed, in the 12 months prior to the reporting day, along a distribution system operated by that licensee.

S. 40FJ(1)(c)  
amended by  
No. 46/2014  
s. 6(1).

Electricity Industry Act 2000  
No. 68 of 2000  
Part 2—Regulation of electricity industry

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| (2) In subsection (1) <i>reporting day</i> means 31 December of every year.  | S. 40FJ(2)<br>amended by<br>No. 55/2010<br>s. 11(2),<br>substituted by<br>No. 64/2011<br>s. 11(1),<br>amended by<br>No. 46/2014<br>s. 6(2). |
| (2A) Without limiting the generality of section 20(2) or (3) or section 21, a licence to distribute electricity is deemed to include a condition requiring the distribution company holding the licence to, within one month after every year, give to the Minister a report that specifies— | S. 40FJ(2A)<br>inserted by<br>No. 64/2011<br>s. 11(1),<br>amended by<br>No. 46/2014<br>s. 6(3)(a).  |
| (a) the number of TFiT scheme generating facilities connected, at the end of the previous applicable year, to a distribution system operated by that licensee; and   | S. 40FJ(2A)(a)<br>amended by<br>No. 46/2014<br>s. 6(3)(b).  |
| (b) the aggregate installed or name-plate generating capacity of TFiT scheme generating facilities connected, at the end of the previous applicable year, to a distribution system operated by that licensee; and  | S. 40FJ(2A)(b)<br>amended by<br>No. 46/2014<br>s. 6(3)(b).  |
| (c) the total amount of TFiT scheme electricity conveyed, in the previous applicable year, along a distribution system operated by that licensee.  | S. 40FJ(2A)(c)<br>amended by<br>No. 46/2014<br>s. 6(3)(b).  |
| (2B) Subsection (1) ceases to apply on 31 December 2024.   | S. 40FJ(2B)<br>inserted by<br>No. 64/2011<br>s. 11(1).  |
| (2C) Subsection (2A) ceases to apply on 31 December 2016.  | S. 40FJ(2C)<br>inserted by<br>No. 64/2011<br>s. 11(1).  |

S. 40FJ(3)  
amended by  
Nos 64/2011  
s. 11(2),  
70/2013  
s. 4(Sch. 2  
item 15.1).

- (3) The Minister must include the information given to the Minister in respect of a year under subsection (1) or (2A) in the report of operations of the Department of State Development, Business and Innovation for that year under Part 7 of the **Financial Management Act 1994**.

S. 40G  
inserted by  
No. 35/2007  
s. 3,  
substituted by  
No. 41/2009  
s. 6,  
amended by  
No. 28/2015  
s. 3(1).

**40G Retailer licence condition relating to purchase of small renewable energy generation electricity**

- (1) Without limiting the generality of section 20(2) or 20(3) or section 21, but subject to this Division, the conditions to which a licence to sell electricity held by a relevant licensee is subject include a condition requiring that licensee—

S. 40G(1)(a)  
inserted by  
No. 28/2015  
s. 3(1).

- (a) to publish general renewable energy feed-in terms and conditions; and

S. 40G(1)(b)  
inserted by  
No. 28/2015  
s. 3(1).

- (b) to, as soon as practicable after the licensee publishes the terms and conditions in accordance with this section but before the terms and conditions take effect, input the terms and conditions into an Internet site nominated by the Minister so that the terms and conditions are able to be published on the Internet.

Note to  
s. 40G(1)  
inserted by  
No. 28/2015  
s. 3(2).

**Note**

General renewable energy feed-in terms and conditions take effect 2 months after they are published unless they have been referred to the Commission for assessment—see section 40H.

- (2) A relevant licensee that publishes general renewable energy feed-in terms and conditions as required by the condition set out in subsection (1) must give a copy of those prices, terms and conditions to the Minister within 7 days after publishing them.

**40GA Unilateral variation of general renewable energy feed-in terms and conditions prohibited**

S. 40GA  
inserted by  
No. 35/2013  
s. 9.

- (1) This section applies to a contract for the purchase by a relevant licensee of small renewable energy generation electricity from a relevant generator that is entered into before 1 January 2013.
- (2) Despite anything to the contrary in the contract, the contract cannot be varied to include terms and conditions equivalent to or the same as those specified under section 40FB(2) without the agreement in writing of both parties to the contract.

**40H When do published feed-in offers take effect?**

S. 40H  
(Heading)  
amended by  
No. 41/2009  
s. 7(1).  
S. 40H  
inserted by  
No. 35/2007  
s. 3.

- (1) Subject to this Division, general renewable energy feed-in terms and conditions, premium solar feed-in tariff terms and conditions and TFiT scheme terms and conditions take effect 2 months after they are published under section 40FF, 40FG or 40G.
- (1A) Subsection (1) does not apply to referred terms and conditions that have been referred to the Commission for assessment within 2 months after they are published under section 40FF, 40FG or 40G.
- (2) If referred terms and conditions referred to in subsection (1A) are, in a report under section 40J, assessed as fair and reasonable, those terms and conditions take effect—

S. 40H(1)  
substituted by  
No. 41/2009  
s. 7(2),  
amended by  
Nos 64/2011  
s. 12(1),  
35/2013  
s. 10(1).

S. 40H(1A)  
inserted by  
No. 35/2013  
s. 10(2).

S. 40H(2)  
amended by  
Nos 41/2009  
s. 7(3),  
35/2013  
s. 10(3).

S. 40H(2)(a)  
amended by  
No. 41/2009  
s. 7(3).

- (a) if notice of that report is published in accordance with section 40K on or before the day those terms and conditions would have taken effect but for their referral under section 40I(1)(a)—on that day;
- (b) in any other case—on the day notice of the making of that report is published in accordance with section 40K.

S. 40H(3)  
substituted by  
No. 41/2009  
s. 7(4),  
amended by  
No. 35/2013  
s. 10(3).

- (3) To avoid doubt, referred terms and conditions referred to in subsection (1A)—
  - (a) that are superseded by declared general feed-in terms and conditions are not to be taken to have taken effect;

S. 40H(3)(b)  
amended by  
No. 64/2011  
s. 12(2)(a).

- (b) that are superseded by declared premium solar feed-in terms and conditions are not to be taken to have taken effect;

S. 40H(3)(c)  
inserted by  
No. 64/2011  
s. 12(2)(b).

- (c) that are superseded by declared TFiT scheme terms and conditions are not to be deemed to have taken effect.

S. 40H(4)  
inserted by  
No. 41/2009  
s. 7(4).

- (4) In subsection (3)—

***declared general feed-in terms and conditions***  
means the terms and conditions declared under section 40M(2)(a) to apply to the purchases of small renewable energy generation electricity by the relevant licensee named in the declaration under that section;

S. 40H(4)  
def. of  
***declared  
premium  
solar feed-in  
terms and  
conditions***  
amended by  
No. 64/2011  
s. 12(3)(a).

***declared premium solar feed-in terms and conditions***  
means the terms and conditions declared under section 40MA(2)(a) to apply to the purchases of qualifying solar energy generation electricity by the relevant licensee or small retail licensee named in the declaration under that section;

***declared TFiT scheme terms and conditions***  
means the terms and conditions declared under section 40MAB(2)(a) to apply to the purchases of TFiT scheme electricity by the relevant licensee or small retail licensee named in the declaration under that section.

S. 40H(4)  
def. of  
***declared TFiT  
scheme terms  
and  
conditions***  
inserted by  
No. 64/2011  
s. 12(3)(b).

**40I Reference of small renewable energy generation  
electricity feed-in offers to Commission**

S. 40I  
(Heading)  
amended by  
No. 41/2009  
s. 8(1).  
S. 40I  
inserted by  
No. 35/2007  
s. 3.

(1) The Minister, by written notice, may—

S. 40I(1)  
substituted by  
No. 41/2009  
s. 8(2).

- (a) refer general renewable energy feed-in terms and conditions, premium solar feed-in tariff terms and conditions or TFiT scheme terms and conditions to the Commission for assessment as to whether they are fair and reasonable if the Minister considers that, in either case, at least one term or condition may not be fair and reasonable; or
- (b) if a licensee is a non-complying licensee, request the Commission to determine—
- (i) in the case of a relevant licensee that has not complied with section 40G(1), fair and reasonable general renewable energy feed-in terms and conditions to apply to small renewable energy generation electricity purchased from a relevant generator by that licensee;

S. 40I(1)(a)  
amended by  
No. 64/2011  
s. 13(1).

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S. 40(1)(b)(ii)  
amended by  
No. 64/2011  
s. 13(2).

(ii) in the case of a relevant licensee that has not complied with section 40FF(1) or a small retail licensee that has not complied with section 40FG(3), premium solar feed-in tariff terms and conditions to apply to qualifying solar energy generation electricity purchased from a qualifying customer by that relevant licensee or small retail licensee;

S. 40(1)(b)(iii)  
inserted by  
No. 64/2011  
s. 13(3).

(iii) in the case of a relevant licensee that has not complied with section 40FF(1) or a small retail licensee that has not complied with section 40FG(3), TFiT scheme terms and conditions to apply to TFiT scheme electricity purchased from a TFiT scheme customer by that relevant licensee or small retail licensee.

S. 40(2)  
amended by  
Nos 41/2009  
s. 8(2),  
64/2011  
s. 13(4),  
repealed by  
No. 35/2013  
s. 11.

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- (3) As soon as practicable after a notice under subsection (1) is given to the Commission, the Commission must publish the notice—
- (a) in the Government Gazette; and
  - (b) in a daily newspaper generally circulating in Victoria; and
  - (c) on the Commission's Internet site.

**40J Commission assessment of small renewable energy generation feed-in terms or conditions**

(1) The Commission must—

S. 40J  
(Heading)  
amended by  
No. 41/2009  
s. 9(1).  
S. 40J  
inserted by  
No. 35/2007  
s. 3.

(a) assess referred terms and conditions as to whether they are fair and reasonable; and

S. 40J(1)(a)  
amended by  
No. 41/2009  
s. 9(2).

(b) report to the Minister on that assessment.

(2) In the case of referred terms and conditions that are premium solar feed-in tariff terms and conditions or TFiT scheme terms and conditions, the Commission must not—

S. 40J(2)  
substituted by  
No. 41/2009  
s. 9(3),  
amended by  
No. 64/2011  
s. 14(1)(a).

(a) assess the statutory minimum conditions or statutory minimum TFiT scheme conditions as to whether they are fair and reasonable; or

S. 40J(2)(a)  
amended by  
No. 64/2011  
s. 14(1)(b).

(b) recommend—

S. 40J(2)(b)  
substituted by  
No. 64/2011  
s. 14(1)(c).

(i) any amount or price for qualifying solar energy generation electricity supplied by a qualifying customer to a relevant licensee or a small retail licensee that differs from the premium solar feed-in credit; or

(ii) any amount or price for TFiT scheme electricity supplied by a TFiT scheme customer to a relevant licensee or a small retail licensee that differs from the TFiT scheme feed-in credit.

**S. 40J(2A)**  
inserted by  
No. 41/2009  
s. 9(3).

(2A) If the Commission assesses any of the referred terms and conditions as not being fair and reasonable, the Commission must, in its report to the Minister—

(a) in the case of referred terms and conditions that are general renewable energy feed-in terms and conditions, recommend to the Minister prices, terms and conditions it considers are fair and reasonable;

**S. 40J(2A)(b)**  
amended by  
No. 64/2011  
s. 14(2).

(b) in the case of referred terms and conditions that are premium solar feed-in tariff terms and conditions or TFiT scheme terms and conditions, recommend to the Minister terms and conditions it considers are fair and reasonable.

**S. 40J(3)**  
amended by  
No. 41/2009  
s. 9(4).

(3) ESC recommended general feed-in terms and conditions must include either or both of the following—

(a) a variation to any price, term or condition that the Commission has (as part of the assessment) assessed as not being fair and reasonable to make that price, term or condition fair and reasonable;

(b) a new price, term or condition to apply in substitution of a price, term or condition that the Commission has (as part of the assessment) assessed as not being fair and reasonable.

**S. 40J(3A)**  
inserted by  
No. 41/2009  
s. 9(5).

(3A) ESC recommended premium solar feed-in terms and conditions must include—

(a) terms and conditions that are consistent with the statutory minimum conditions; and

- (b) either or both of the following—
- (i) a variation to any other term or condition that the Commission has (as part of the assessment) assessed as not being fair and reasonable to make that term or condition fair and reasonable;
  - (ii) a new term or condition to apply in substitution of a term or condition that the Commission has (as part of the assessment) assessed as not being fair and reasonable.
- (3B) ESC recommended TFiT scheme terms and conditions must include—
- (a) terms and conditions that are consistent with the statutory minimum TFiT scheme conditions; and
  - (b) either or both of the following—
    - (i) a variation to any other term or condition that the Commission has (as part of the assessment) assessed as not being fair and reasonable to make that term or condition fair and reasonable;
    - (ii) a new term or condition to apply in substitution of a term or condition that the Commission has (as part of the assessment) assessed as not being fair and reasonable.
- (4) A decision of the Commission relating to an assessment, or a recommendation in a report (including ESC recommended general feed-in terms and conditions, ESC recommended premium solar feed-in terms and conditions and ESC recommended TFiT scheme terms and conditions), under this section is not a

**S. 40J(3B)**  
inserted by  
No. 64/2011  
s. 14(3).

**S. 40J(4)**  
amended by  
Nos 41/2009  
s. 9(6),  
64/2011  
s. 14(4).

determination for the purposes of the **Essential Services Commission Act 2001**.

S. 40K  
inserted by  
No. 35/2007  
s. 3,  
amended by  
No. 41/2009  
s. 10.

**40K Certain Commission assessment reports to be made publicly available**

If, in a report under section 40J, the Commission assesses referred terms and conditions as fair and reasonable, the Commission must—

- (a) publish notice of the making of that report in the Government Gazette; and
- (b) publish that report on its Internet site.

S. 40L  
inserted by  
No. 35/2007  
s. 3.

**40L Commission determination of small renewable energy generation prices, terms and conditions**

(1) The Commission must determine—

- (a) the prices, terms and conditions on the Minister's request under section 40I(1)(b)(i);
- (b) the terms and conditions on the Minister's request under section 40I(1)(b)(ii);

S. 40L(1)  
substituted by  
No. 41/2009  
s. 11.

S. 40L(1)(b)  
amended by  
No. 64/2011  
s. 15(1).

- (c) the terms and conditions on the Minister's request under section 40I(1)(b)(iii).

S. 40L(1)(c)  
inserted by  
No. 64/2011  
s. 15(2).

S. 40L(2)  
substituted by  
No. 41/2009  
s. 11.

(2) The Commission must report to the Minister on a determination under subsection (1).

S. 40L(2A)  
inserted by  
No. 41/2009  
s. 11.

(2A) Prices, terms and conditions that are determined under subsection (1)(a) must be fair and reasonable.

- (2B) Terms and conditions determined under subsection (1)(b)—
- S. 40L(2B)  
inserted by  
No. 41/2009  
s. 11.
- (a) must include terms and conditions that are consistent with the statutory minimum conditions; and
- (b) in the case of terms and conditions that are not the statutory minimum conditions, must be fair and reasonable.
- (2C) Terms and conditions determined under subsection (1)(c)—
- S. 40L(2C)  
inserted by  
No. 64/2011  
s. 15(3).
- (a) must include terms and conditions that are consistent with the statutory minimum TFiT scheme conditions; and
- (b) in the case of terms and conditions that are not the statutory minimum TFiT scheme conditions, must be fair and reasonable.
- (3) A determination of the Commission under this section is not a determination for the purposes of the **Essential Services Commission Act 2001**.
- 40M Declaration of small renewable energy generation electricity general feed-in terms and conditions**
- S. 40M  
inserted by  
No. 35/2007  
s. 3,  
substituted by  
No. 41/2009  
s. 12.
- (1) This section applies if the Minister receives a report from the Commission under—
- (a) section 40J containing ESC recommended general feed-in terms and conditions; or
- (b) section 40L containing ESC determined general feed-in terms and conditions.
- (2) The Minister, by notice published in the Government Gazette, may declare that—
- (a) ESC recommended general feed-in terms and conditions apply to the purchase of small renewable energy generation electricity by the relevant licensee named in the declaration whose prices, terms and

conditions were assessed by the Commission as not being fair and reasonable;

- (b) ESC determined general feed-in terms and conditions apply to the purchase of small renewable energy generation electricity by the non-complying licensee named in the declaration.

S. 40MAA  
inserted by  
No. 28/2015  
s. 4.

**40MAA Relevant licensee must input declared general feed-in terms and conditions into Minister nominated Internet site**

- (1) This section applies to a relevant licensee named in a declaration under section 40M.
- (2) The relevant licensee must, as soon as practicable after the declaration is published in the Government Gazette, input the ESC recommended general feed-in terms and conditions or ESC determined general feed-in terms and conditions that are the subject of the declaration into an Internet site nominated by the Minister so that the terms and conditions are able to be published on the Internet.

**Note**

The relevant licensee must also publish the ESC recommended general feed-in terms and conditions or ESC determined general feed-in terms and conditions on its Internet site—see section 40N.

S. 40MA  
inserted by  
No. 41/2009  
s. 12.

**40MA Declaration of qualifying solar energy generation electricity premium solar feed-in terms and conditions**

- (1) This section applies if the Minister receives a report from the Commission under—
- (a) section 40J containing ESC recommended premium solar feed-in terms and conditions;  
or
- (b) section 40L containing ESC determined premium solar feed-in terms and conditions.

- (2) The Minister, by notice published in the Government Gazette, may declare that—
- (a) ESC recommended premium solar feed-in terms and conditions apply to the purchase of qualifying solar energy generation electricity by the relevant licensee or small retail licensee named in the declaration whose terms and conditions were assessed by the Commission as not being fair and reasonable;
  - (b) ESC determined premium solar feed-in terms and conditions apply to the purchase of qualifying solar energy generation electricity by the non-complying licensee named in the declaration.

**40MAB Declaration of TFiT scheme terms and conditions**

S. 40MAB  
inserted by  
No. 64/2011  
s. 16.

- (1) This section applies if the Minister receives a report from the Commission under—
- (a) section 40J containing ESC recommended TFiT scheme terms and conditions; or
  - (b) section 40L containing ESC determined TFiT scheme terms and conditions.
- (2) The Minister, by notice published in the Government Gazette, may declare that—
- (a) ESC recommended TFiT scheme terms and conditions apply to the purchase of TFiT scheme electricity by the relevant licensee or small retail licensee named in the declaration whose terms and conditions were assessed by the Commission as not being fair and reasonable;
  - (b) ESC determined TFiT scheme terms and conditions apply to the purchase of TFiT scheme electricity by the non-complying licensee named in the declaration.

S. 40MB  
inserted by  
No. 41/2009  
s. 12.

**40MB When do declared ESC recommended feed-in terms or conditions take effect?**

- (1) Declared ESC recommended feed-in terms and conditions—
- (a) supersede the referred terms and conditions related to those recommended feed-in terms and conditions and that the Commission has assessed in a report under section 40J as not being fair and reasonable; and
  - (b) take effect on—
    - (i) the day the relevant notice is published in the Government Gazette under section 40M(2)(a), 40MA(2)(a) or 40MAB(2)(a) (as the case requires); or
    - (ii) if the notice specifies a later day, that day.

S. 40MB  
(1)(b)(i)  
amended by  
No. 64/2011  
s. 17(1).

- (2) In subsection (1)—

*declared ESC recommended feed-in terms and conditions* means—

- (a) the prices, terms and conditions that have been declared under section 40M(2)(a) to apply to the purchase of small renewable energy generation electricity; or
- (b) the terms and conditions that have been declared under section 40MA(2)(a) to apply to the purchase of qualifying solar energy generation electricity;
- (c) the terms and conditions that have been declared under section 40MAB(2)(a) to apply to the purchase of TFiT scheme electricity.

S. 40MB(2)  
def. of  
*declared ESC  
recommended feed-in  
terms and  
conditions*  
amended by  
No. 64/2011  
s. 17(2).

**40MC When do declared ESC determined feed-in terms or conditions take effect?**

S. 40MC  
inserted by  
No. 41/2009  
s. 12.

- (1) Declared ESC determined feed-in terms and conditions take effect on—
- (a) the day the relevant notice is published in the Government Gazette under section 40M(2)(b), 40MA(2)(b) or 40MAB(2)(b) (as the case requires); or
  - (b) if the notice specifies a later day, that day.

S. 40MC(1)(a)  
amended by  
No. 64/2011  
s. 18(1).

- (2) In subsection (1)—

*declared ESC determined feed-in terms and conditions* means—

S. 40MC(2)  
def. of  
*declared ESC  
determined  
feed-in terms  
and  
conditions*  
amended by  
No. 64/2011  
s. 18(2).

- (a) the prices, terms and conditions that have been declared under section 40M(2)(b) to apply to the purchase of small renewable energy generation electricity; or
- (b) the terms and conditions that have been declared under section 40MA(2)(b) to apply to the purchase of qualifying solar energy generation electricity;
- (c) the terms and conditions that have been declared under section 40MAB(2)(b) to apply to the purchase of TFiT scheme electricity.

**40MD Licence condition applying to relevant licensee named in Ministerial declaration**

S. 40MD  
inserted by  
No. 41/2009  
s. 12.

A licence to sell electricity held by a relevant licensee named in—

- (a) a declaration under section 40M(2) is deemed to include a condition requiring that licensee to offer to purchase small renewable energy generation electricity from a relevant generator at the prices, and on the terms and

conditions, declared under that declaration to apply to those purchases;

S. 40MD(b)  
amended by  
No. 64/2011  
s. 19(a).

- (b) a declaration under section 40MA(2) is deemed to include a condition requiring that licensee to offer to purchase qualifying solar energy generation electricity from a qualifying customer on the terms and conditions declared under that declaration to apply to those purchases;

S. 40MD(c)  
inserted by  
No. 64/2011  
s. 19(b).

- (c) a declaration under section 40MAB(2) is deemed to include a condition requiring that licensee to offer to purchase TFiT scheme electricity from a TFiT scheme customer on the terms and conditions declared under that declaration to apply to those purchases.

S. 40ME  
inserted by  
No. 41/2009  
s. 12,  
amended by  
No. 64/2011  
s. 20 (ILA  
s. 39B(1)).

**40ME Licence condition applying to small retail licensee named in Ministerial declaration**

- (1) A licence to sell electricity held by a small retail licensee named in a declaration under section 40MA(2) is deemed to include a condition requiring that licensee to offer to purchase qualifying solar energy generation electricity from a qualifying customer on the terms and conditions declared under that declaration to apply to those purchases.
- (2) A licence to sell electricity held by a small retail licensee named in a declaration under section 40MAB(2) is deemed to include a condition requiring that licensee to offer to purchase TFiT scheme electricity from a TFiT scheme customer on the terms and conditions declared under that declaration to apply to those purchases.

S. 40ME(2)  
inserted by  
No. 64/2011  
s. 20.

<b>40N Retailer Internet site must be up to date for small renewable energy generation electricity purchase offers</b>	<b>S. 40N</b> inserted by No. 35/2007 s. 3.
(1) A relevant licensee that publishes general renewable energy feed-in terms and conditions in accordance with the condition set out in section 40G(1) must—	<b>S. 40N(1)</b> amended by No. 41/2009 s. 13(1)(a).
(a) if those terms and conditions become referred terms and conditions, publish on its Internet site a note informing the public of that referral and that explains the effect of that referral; and	<b>S. 40N(1)(a)</b> amended by No. 41/2009 s. 13(1)(b)(c).
(b) if those terms and conditions are superseded by ESC recommended general feed-in terms and conditions declared under section 40M(2) as applying to purchases of small renewable energy generation electricity by that licensee, publish on its Internet site—	<b>S. 40N(1)(b)</b> amended by No. 41/2009 s. 13(1)(b)(d).
(i) a note to that effect; and	
(ii) the ESC recommended general feed-in terms and conditions that apply; and	<b>S. 40N(1)(b)(ii)</b> amended by No. 41/2009 s. 13(1)(d).
(iii) the day on which those ESC recommended general feed-in terms and conditions take effect.	<b>S. 40N(1)(b)(iii)</b> amended by No. 41/2009 s. 13(1)(d).
(2) A non-complying licensee must publish on its Internet site—	
(a) ESC determined general feed-in terms and conditions that have been declared under section 40M(2) as applying to purchases of small renewable energy generation electricity by that licensee; and	<b>S. 40N(2)(a)</b> amended by No. 41/2009 s. 13(2).

S. 40N(2)(b)  
amended by  
No. 41/2009  
s. 13(2).

- (b) the day on which those ESC determined general feed-in terms and conditions take effect.

S. 40NA  
inserted by  
No. 41/2009  
s. 14.

**40NA Retailer Internet site must be up to date for premium solar feed-in tariff offers**

- (1) A relevant licensee that publishes premium solar feed-in tariff terms and conditions in accordance with the condition set out in section 40FF(1) or a small retail licensee that publishes premium solar feed-in tariff terms and conditions in accordance with the condition set out in section 40FG(3) must—
- (a) if those terms and conditions become referred terms and conditions, publish on its Internet site a note informing the public of that referral and that explains the effect of that referral; and
  - (b) if those terms and conditions are superseded by terms and conditions declared under section 40MA(2)(a) as applying to purchases of qualifying solar energy generation electricity by the licensee, publish on its Internet site—
    - (i) a note to that effect; and
    - (ii) the terms and conditions that apply; and
    - (iii) the day on which the terms and conditions that apply take effect.
- (2) A relevant licensee or small retail licensee that is a non-complying licensee must publish on its Internet site—
- (a) the terms and conditions that have been declared under section 40MA(2)(b) as applying to purchases of qualifying solar

energy generation electricity by the licensee;  
and

- (b) the day on which the terms and conditions that apply take effect.

**40NB Retailer Internet site must be up to date for transitional feed-in tariff offers**

S. 40NB  
inserted by  
No. 41/2009  
s. 14,  
substituted by  
No. 64/2011  
s. 21.

- (1) A relevant licensee that publishes TFiT scheme terms and conditions in accordance with the condition set out in section 40FF(1) or a small retail licensee that publishes TFiT scheme terms and conditions in accordance with the condition set out in section 40FG(3) must—
- (a) if those terms and conditions become referred terms and conditions, publish on its Internet site a note informing the public of that referral and that explains the effect of that referral; and
- (b) if those terms and conditions are superseded by terms and conditions declared under section 40MAB(2)(a) as applying to purchases of TFiT scheme electricity by the licensee, publish on its Internet site—
- (i) a note to that effect; and
- (ii) the terms and conditions that apply; and
- (iii) the day on which the terms and conditions that apply take effect.
- (2) A relevant licensee or small retail licensee that is a non-complying licensee must publish on its Internet site—
- (a) the terms and conditions that have been declared under section 40MAB(2)(b) as applying to purchases of TFiT scheme electricity by the licensee; and

- (b) the day on which the terms and conditions that apply take effect.

S. 40NC  
inserted by  
No. 64/2011  
s. 21.

**40NC Retailer reporting in relation to general feed-in tariff scheme**

S. 40NC(1)  
substituted by  
No. 46/2014  
s. 7(1).

- (1) Without limiting the generality of section 20(2) or (3) or section 21, but subject to this Division, the conditions to which a licence to sell electricity held by a relevant licensee is subject include a condition requiring the licensee, within one month after each reporting day, to give to the Minister a report that specifies—

- (a) the number of small renewable energy generation facilities from which electricity was generated and sold to the licensee in the 3 months prior to the reporting day; and  
(b) the total amount of electricity generated by means of small renewable energy generation facilities and purchased by the licensee in the 3 months prior to the reporting day.

S. 40NC(2)  
amended by  
No. 70/2013  
s. 4(Sch. 2  
item 15.2).

- (2) The Minister must include the information given to the Minister in respect of a year under subsection (1) in the report of operations of the Department of State Development, Business and Innovation for that year under Part 7 of the **Financial Management Act 1994**.

S. 40NC(3)  
inserted by  
No. 46/2014  
s. 7(2).

- (3) In this section—  
*reporting day* means—  
(a) 31 March of every year; and  
(b) 30 June of every year; and  
(c) 30 September of every year; and  
(d) 31 December of every year.

**Division 5B—Condition relating to  
greenhouse gas emissions and  
energy efficiency benchmarking information**

Pt 2 Div. 5B  
(Heading and  
ss 40O–40S)  
inserted by  
No. 59/2008  
s. 15.

**40O Definitions**

S. 40O  
inserted by  
No. 59/2008  
s. 15.

In this Division—

*bill benchmarking information* has the meaning  
given by section 40P;

*provide*, in relation to bill benchmarking  
information, means—

- (a) include in, or accompany, a bill issued  
for the supply or sale of electricity to a  
residential customer; or
- (b) give in another manner approved by the  
Commission;

*residential customer* means a person, or a  
member of a class of persons, to whom an  
Order under section 40Q(1) applies.

**40P Meaning of bill benchmarking information**

S. 40P  
inserted by  
No. 59/2008  
s. 15.

Bill benchmarking information is information that  
enables a residential customer to—

- (a) make a comparison between—
  - (i) the use of electricity at the residential  
customer's place of supply; and
  - (ii) the average use of electricity at similar  
places of supply; and
- (b) assess whether the use of electricity at the  
residential customer's place of supply is  
above, equal or below the average use of  
electricity at similar places of supply.

S. 40Q  
inserted by  
No. 59/2008  
s. 15.

#### **40Q Declaration of residential customers**

- (1) The Governor in Council, by Order published in the Government Gazette, may declare that a person or a class of persons specified in the Order is, for the purposes of section 40R(b), a residential customer or class of residential customers.
- (2) An Order under subsection (1) may specify a class of persons by reference to all or any of the following—
  - (a) the person authorised to sell the electricity;
  - (b) the purpose for which the electricity is used;
  - (c) the quantity of electricity used;
  - (d) the period of use;
  - (e) the place of supply;
  - (f) any other specified factor relevant to the sale of electricity.

S. 40R  
inserted by  
No. 59/2008  
s. 15.

#### **40R Condition relating to greenhouse gas emissions and energy efficiency benchmarking information**

A licence to sell electricity is deemed to include a condition requiring the licensee to—

- (a) include in each bill issued to a customer for the supply or sale of electricity the information concerning greenhouse gas emissions connected with the generation of the electricity so supplied or electricity generation in general that the Commission specifies for this purpose in its guidelines; or
- (b) provide bill benchmarking information to a residential customer.

**40S Commission guidelines relating to greenhouse gas emissions information condition**

S. 40S  
inserted by  
No. 59/2008  
s. 15.

- (1) The Commission must prepare and issue guidelines for the purposes of section 40R(a).
- (2) The Commission may amend any guidelines issued under subsection (1).
- (3) The Commission must consult with Sustainability Victoria before issuing a guideline under subsection (1) or amending a guideline issued under that subsection.
- (4) The Commission must publish each guideline issued under subsection (1) and each amendment of a guideline.

**Division 6—Hardship policies**

Pt 2 Div. 6  
(Heading)  
substituted by  
No. 60/2006  
s. 3.

**41 Definitions**

In this Division—

S. 41  
amended by  
No. 62/2001  
s. 70(d),  
repealed by  
No. 25/2004  
s. 7,  
new s. 41  
inserted by  
No. 60/2006  
s. 3.

*amended financial hardship policy* means a financial hardship policy that is varied or replaced in accordance with section 43A(3)(a) or 43B;

S. 41 def. of  
*amended  
financial  
hardship  
policy*  
inserted by  
No. 3/2014  
s. 9(c).

S. 41 def. of  
*approved  
financial  
hardship  
policy*  
repealed by  
No. 3/2014  
s. 9(a).

\* \* \* \* \*

S. 41 def. of  
*domestic  
customer*  
amended by  
No. 3/2014  
s. 9(b).

*domestic customer* means a person supplied with electricity for use for domestic purposes;

S. 41 def. of  
*financial  
hardship  
policy*  
inserted by  
No. 3/2014  
s. 9(c).

*financial hardship policy* means a policy or an amended financial hardship policy approved by the Commission under section 45.

S. 42  
repealed by  
No. 25/2004  
s. 7,  
new s. 42  
inserted by  
No. 60/2006  
s. 3,  
amended by  
No. 49/2015  
s. 11.

## 42 Objects

Without limiting section 10(c), the objects of this Division are—

- (a) to recognise that financial hardship may be suffered by domestic customers; and
- (b) to promote best practice in electricity service delivery to facilitate continuity of electricity supply to domestic customers experiencing financial hardship.

S. 43  
repealed by  
No. 25/2004  
s. 7,  
new s. 43  
inserted by  
No. 60/2006  
s. 3.

## 43 Financial hardship policies

S. 43(1)  
substituted by  
No. 3/2014  
s. 10(1).

- (1) A licence to sell electricity is deemed to include a condition requiring the licensee to, within 3 months after being granted a licence—

- (a) prepare a policy to deal with domestic customers experiencing financial hardship; and
- (b) submit the policy for approval to the Commission under section 45.

\* \* \* \* \*

S. 43(2)  
repealed by  
No. 3/2014  
s. 10(1).

- (3) A licence to sell electricity is deemed to include a condition requiring the licensee to implement a financial hardship policy by the date specified in the financial hardship policy.
- (4) A term or condition in a contract for the supply or sale of electricity by a licensee to a domestic customer is void to the extent that it is inconsistent with the financial hardship policy of the licensee.

S. 43(3)  
amended by  
No. 3/2014  
s. 10(2).

S. 43(4)  
amended by  
No. 3/2014  
s. 10(3).

**43A Review of financial hardship policy at the direction of Commission**

S. 43A  
inserted by  
No. 3/2014  
s. 11.

- (1) This section applies if the Commission is of the opinion that a financial hardship policy of a licensee requires review.
- (2) The Commission may direct the licensee to review the policy and, if necessary—
  - (a) make variations so that the policy complies with section 43C; or
  - (b) replace the policy with a policy that complies with section 43C.
- (3) On receiving a direction under subsection (2), a licensee must—
  - (a) vary or replace the policy in accordance with any direction of the Commission; and

- (b) submit the amended financial hardship policy to the Commission for approval under section 45.

S. 43B  
inserted by  
No. 3/2014  
s. 11.

**43B Licensee may submit variation to, or replacement of, financial hardship policy for approval**

A licensee may submit to the Commission a variation to, or a replacement of, a financial hardship policy for approval under section 45.

S. 43C  
inserted by  
No. 3/2014  
s. 11.

**43C Content of financial hardship policies**

A policy submitted in accordance with section 43(1), or an amended financial hardship policy submitted in accordance with section 43A(3)(b) or 43B, must include—

- (a) flexible payment options for payment of electricity bills; and
- (b) provision for the auditing of a domestic customer's electricity usage (whether wholly or partly at the expense of the licensee); and
- (c) flexible options for the purchase or supply of replacement electrical equipment designed for domestic use from the licensee or a third party nominated by the licensee; and
- (d) processes for the early response by both licensees and domestic customers to electricity bill payment difficulties.

S. 44  
amended by  
Nos 13/2001  
s. 6, 62/2001  
s. 70(d),  
repealed by  
No. 25/2004  
s. 7,  
new s. 44  
inserted by  
No. 60/2006  
s. 3.

**44 Commission may develop guidelines**

- (1) The Commission may prepare and issue guidelines in relation to the development and implementation by licensees of financial hardship policies.
- (2) The Commission may amend any guidelines issued under this section.

- (3) The Commission must publish each guideline issued under this section and each amendment of a guideline.

#### **45 Commission approval**

**S. 45  
(Heading)  
substituted by  
No. 3/2014  
s. 12(1).  
S. 45  
amended by  
Nos 62/2001  
s. 70(c)(d),  
25/2004  
s. 8(1),  
75/2004 s. 22,  
expired by  
force of  
No. 68/2000  
s. 45(3),  
new s. 45  
inserted by  
No. 60/2006  
s. 3.**

- (1) The Commission must consider and may, if it considers appropriate, approve—
- (a) a policy submitted in accordance with section 43(1); or
  - (b) an amended financial hardship policy submitted in accordance with section 43A(3)(b) or 43B.
- (2) In deciding whether to approve a policy submitted in accordance with section 43(1), or an amended financial hardship policy submitted in accordance with section 43A(3)(b) or 43B, the Commission must have regard to—
- (a) the essential nature of the electricity supply; and
  - (b) community expectations that licensees will work with domestic customers to manage customers' present and future electricity usage and associated financial obligations; and

**S. 45(1)  
substituted by  
No. 3/2014  
s. 12(2).**

**S. 45(2)  
amended by  
No. 3/2014  
s. 12(3).**

Electricity Industry Act 2000  
No. 68 of 2000  
Part 2—Regulation of electricity industry

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- (c) community expectations that the electricity supply will not be disconnected solely because of a customer's inability to pay for the electricity supply; and
- (d) the principle that the electricity supply to premises should only be disconnected as a last resort; and
- (e) the principle that there should be equitable access to financial hardship policies and that those policies should be transparent and applied consistently.

(3) The Commission must not approve a policy submitted in accordance with section 43(1), or an amended financial hardship policy submitted in accordance with section 43A(3)(b) or 43B, that does not include the provisions set out in section 43C.

S. 45(3)  
amended by  
No. 3/2014  
s. 12(4).

S. 45(4)  
repealed by  
No. 3/2014  
s. 12(5).

S. 46  
amended by  
Nos 62/2001  
s. 70(d),  
25/2004 ss 7,  
8(2), 75/2004  
s. 23, expired  
by force of  
No. 68/2000  
s. 46(6),  
new s. 46  
inserted by  
No. 60/2006  
s. 3,  
repealed by  
No. 3/2014  
s. 13.

\* \* \* \* \*

\* \* \* \* \*

**46A Licensee not to disconnect if there is compliance with financial hardship policy**

S. 46A  
inserted by  
No. 60/2006  
s. 3.

- (1) A licence to sell electricity is deemed to include a condition that the licensee must not disconnect the supply of electricity to a domestic customer if that customer—
- (a) has entered into an agreement with the licensee under the terms of a financial hardship policy of the licensee; and
  - (b) is complying with the terms and conditions of the agreement.
- (2) A term or condition in a contract for the supply or sale of electricity by a licensee to a domestic customer is void to the extent that it is inconsistent with a condition set out in subsection (1).

S. 46A(1)(a)  
amended by  
No. 3/2014  
s. 14.

**Division 6A—Advanced metering infrastructure**

Pt 2 Div. 6A  
(Heading and  
ss 46B–46E)  
inserted by  
No. 60/2006  
s. 4.

**46B Definitions**

S. 46B  
inserted by  
No. 60/2006  
s. 4.

In this Division—

*advanced metering infrastructure* means infrastructure associated with the installation and operation of electricity metering and communications, including interval meters designed to transmit data to, and receive data from, a remote locality;

*AMI tariff* means—

S. 46B def. of  
*AMI tariff*  
inserted by  
No. 55/2010  
s. 8.

- (a) a tariff (including a tariff referred to in section 35 or 36A) applying to electricity supplied and sold that is metered by means of advanced metering infrastructure; or

(b) a tariff (including a tariff referred to in section 40A) applying to electricity distributed or supplied that is metered by means of advanced metering infrastructure;

S. 46B def. of *exempted retailer* inserted by No. 59/2008 s. 16, repealed by No. 11/2013 s. 5(a).

\* \* \* \* \*

S. 46B def. of *relevant licensee* repealed by No. 11/2013 s. 5(a).

\* \* \* \* \*

S. 46B def. of *exempt seller* inserted by No. 11/2013 s. 5(b).

*exempt seller* means a person who—

- (a) engages in the supply and sale of electricity; and
- (b) is exempted from the requirement to obtain a licence in respect of that activity under an Order under section 17;

S. 46B def. of *relevant entity* inserted by No. 11/2013 s. 5(b).

*relevant entity* means a retailer, exempt seller or distribution company determined in accordance with an Order under section 46D to be a relevant entity.

S. 46C inserted by No. 60/2006 s. 4, substituted by No. 11/2013 s. 6.

#### **46C Licence condition requiring compliance with Order**

A licence held by a relevant entity that is a retailer or distribution company is taken to include a condition requiring the retailer or distribution company to comply with an Order under section 46D.

**46CA Exempt seller condition requiring compliance with Order**

S. 46CA  
inserted by  
No. 11/2013  
s. 6.

An Order under section 17 exempting an exempt seller that is a relevant entity from the requirement to obtain a licence in order to engage in the supply and sale of electricity is taken to include a condition requiring the exempt seller to comply with an Order under section 46D.

**46D Orders in relation to advanced metering infrastructure**

S. 46D  
inserted by  
No. 60/2006  
s. 4,  
amended by  
Nos 59/2008  
s. 17, 55/2010  
s. 9,  
substituted by  
No. 11/2013  
s. 7.

(1) The Governor in Council, by notice published in the Government Gazette, may make an Order for or with respect to—

- (a) the regulation of advanced metering infrastructure and associated services and systems;
- (b) the regulation of the installation, operation and maintenance of advanced metering infrastructure and associated systems;
- (c) the regulation of access to, or use of, advanced metering infrastructure and associated services and systems;
- (d) the regulation of access to and use of, or ownership of, data or information obtained or transmitted from, or sent through, advanced metering infrastructure and associated services and systems, including the purpose for which that data or information is obtained, transmitted or sent;
- (e) payments in relation to—
  - (i) the failure to install advanced metering infrastructure and associated systems;

S. 46D(1)(d)  
amended by  
No. 46/2014  
s. 4(1)(a).

S. 46D(1)(e)  
inserted by  
No. 46/2014  
s. 4(1)(b).

(ii) the failure to install advanced metering infrastructure and associated systems that meet a specified functionality or a specified standard of performance or service for that infrastructure and those systems;

S. 46D(1)(f)  
inserted by  
No. 46/2014  
s. 4(1)(b).

(f) the manual reading of meters (including meters that are part of advanced metering infrastructure and associated systems) and fees and charges for that reading of meters.

S. 46D(2)  
amended by  
No. 46/2014  
s. 4(2)(a).

- (2) Without limiting subsection (1), an Order under subsection (1)(a), (b), (c) or (d) may—
- (a) specify a process for determining who is to be a relevant entity;
  - (b) specify the minimum functionality required of advanced metering infrastructure supplied or installed by or on behalf of a relevant entity and the associated services and systems required for its support;
  - (c) specify minimum standards of performance and service that must be met by a relevant entity in respect of the provision, installation, maintenance and operation of advanced metering infrastructure and associated services and systems;
  - (d) require trials of technologies to be conducted by or on behalf of a relevant entity to identify the most cost-effective methods for the delivery of advanced metering infrastructure and associated services and systems and specify the nature and timing of those trials;

- (e) determine the number of customers or supply points (or both) in respect of which a relevant entity is required to supply or install advanced metering infrastructure and associated services and systems;
- (f) specify the factors to be used to determine the customers referred to in paragraph (e);
- (g) determine the date or dates by which, and the location at which, the advanced metering infrastructure and associated services and systems must be supplied or installed and the date or dates by which the infrastructure, services and systems must become operational;
- (h) specify how customers are to be notified when advanced metering infrastructure and associated services and systems become operational;
- (i) specify the entity that is responsible for the installation, operation and maintenance of advanced metering infrastructure and associated services and systems;
- (j) if a retailer is a relevant entity, specify the responsibilities of the entity on being notified of a customer's election to transfer to another retailer or an exempt seller, to ensure there is no cost impediment or other impediment to that transfer arising from the provision of advanced metering infrastructure;
- (k) specify the responsibilities of an exempt seller on being notified of a customer's election to transfer to another exempt seller or a retailer, to ensure there is no cost impediment or other impediment to that

- transfer arising from the provision of advanced metering infrastructure;
- (l) provide for the setting and regulation of the prices, fees and charges that a relevant entity who is a distribution company may charge for or in connection with the costs of, or in relation to, the provision, installation, maintenance and operation of advanced metering infrastructure and associated services and systems;
  - (m) empower the recovery of the prices, fees and charges referred to in paragraph (l) from—
    - (i) a retailer who is a relevant entity or a class or classes of retailers who are relevant entities supplied with electricity by the distribution company, or all customers of a retailer who is a relevant entity or a class or classes of customers of a retailer who is a relevant entity and is so supplied;
    - (ii) an exempt seller or a class or classes of exempt sellers supplied with electricity by the distribution company, or all customers of an exempt seller or a class or classes of customers of an exempt seller who is so supplied;
  - (n) specify the structure of AMI tariffs or classes of AMI tariffs at which a relevant entity will distribute, supply or sell electricity;
  - (o) require a relevant entity that is a retailer or exempt seller to offer a specified customer, or a customer of a specified class, a choice of AMI tariffs or classes of AMI tariffs at which the entity will supply or sell electricity to the customer;

- (p) require a relevant entity that is a retailer or exempt seller to transfer a customer being supplied and sold electricity by the entity at a specified AMI tariff or at a specified class of AMI tariff to another AMI tariff at the request of the customer;
- (q) require a relevant entity that is a distribution company to, at the request of a retailer of a customer of that retailer, assign a specified AMI tariff or a specified class of AMI tariff at which electricity is distributed or sold by the entity to that customer;
- (r) prohibit the imposition of a fee or charge for a transfer or assignment referred to in paragraph (p) or (q);
- (s) require a relevant entity to give a specified customer, or a customer of a specified class, or a person or entity authorised by a customer—
  - (i) information of an explanatory kind about advanced metering infrastructure;
  - (ii) information about when a specified AMI tariff, or a specified class of AMI tariffs, may take effect;
  - (iii) notification of the date when, or the period within which, electricity will be supplied and sold to that specified customer, or customers of that specified class, at specified AMI tariffs;
  - (iv) information as to the basis on which a specified AMI tariff, or a specified class of AMI tariffs, is calculated;
  - (v) information about the supply and installation of advanced metering infrastructure;

- (vi) specified electricity usage, billing and metering data relating to the consumption of electricity metered through advanced metering infrastructure and associated services and systems;
- (vii) any other information related to electricity supplied and sold through advanced metering infrastructure and associated services and systems;
- (t) specify how information referred to in paragraph (s) is to be given to a specified customer, or a customer of a specified class, or a person or entity authorised by a customer;
- (u) require a relevant entity to—
  - (i) prepare, publish and maintain specified information; or
  - (ii) give specified information to a specified customer, or a customer of a specified class, or to a person or entity authorised by the customer—to enable the customer to compare offers for the supply and sale of electricity that is to be supplied and sold at specified AMI tariffs;
- (v) specify how information referred to in paragraph (u) is to be published;
- (w) require a relevant entity to obtain the specified consent of a customer before that customer agrees—
  - (i) to the supply and sale of electricity to that customer at a specified AMI tariff, or a specified class of AMI tariffs;

- (ii) to a variation to a specified AMI tariff, or a specified class of AMI tariffs at which electricity is supplied or sold to that customer;
- (x) require a relevant entity to keep confidential specified customer information, including historical electricity usage, billing and metering data relating to the consumption of electricity metered through advanced metering infrastructure and associated services and systems;
- (y) require a relevant entity to provide specified information to another relevant entity (the *second entity*) for the purpose of enabling the second entity to comply with a requirement made under paragraph (s) or (u);
- (z) specify how information referred to in paragraph (y) is to be given to the second entity;
- (za) require a relevant entity to assist, in a specified manner, a specified customer, or a customer of a specified class, to enable the customer to determine whether the customer may benefit from being supplied and sold electricity at a specified AMI tariff;
- (zb) require a relevant entity to establish and maintain a specified method, format, process or procedure (which may be an electronic method, format, process or procedure) by which a specified customer, or a customer of a specified class, who is supplied and sold electricity at an AMI tariff may access—
  - (i) data relating to electricity consumption by that customer;
  - (ii) information about that AMI tariff and other AMI tariffs;

- (zc) provide for when a specified AMI tariff, or a specified class of AMI tariffs, may have effect;
- (zd) specify the requirements to be met by a relevant entity before the entity may offer to supply and sell, or distribute and supply, electricity to a specified customer, or a customer of a specified class, at a specified AMI tariff or specified class of AMI tariffs;
- (ze) prohibit or regulate the provision of supply capacity control services and load management services by means of advanced metering infrastructure and associated services and systems;
- (zf) provide for audits of activities of a relevant entity for the purpose of determining whether the relevant entity is complying with section 46C or 46CA;
- (zg) requiring a relevant entity that is a distribution company to give the Minister and the Commission information about—
  - (i) the installation (or non-installation) of advanced metering infrastructure and associated systems;
  - (ii) installed advanced metering infrastructure and associated systems that do not meet a specified functionality or a specified standard of performance or service for that infrastructure and those systems;
  - (iii) any payments referred to in subsection (3).

S. 46D(2)(zf)  
amended by  
No. 46/2014  
s. 4(2)(b).

S. 46D(2)(zg)  
inserted by  
No. 46/2014  
s. 4(2)(c).

- (3) Without limiting subsection (1), an Order under subsection (1)(e) may—
- (a) require a relevant entity that is a distribution company to make a payment to a customer by a specified date or in specified circumstances in relation to—
    - (i) a failure to install advanced metering infrastructure and associated systems;
    - (ii) a failure to install advanced metering infrastructure and associated systems that meet a specified functionality or a specified standard of performance or service for that infrastructure and those systems;
  - (b) specify the amount of a payment referred to in paragraph (a) or provide for the setting and regulation of an amount of a payment referred to in that paragraph;
  - (c) require a relevant entity to provide specified information to another relevant entity (the *second entity*) for the purpose of enabling that second entity to comply with a requirement of an Order made under this subsection.

S. 46D(3)  
inserted by  
No. 46/2014  
s. 4(3).

- (4) Without limiting subsection (1), an Order under subsection (1)(f) may—
- (a) provide for the setting and regulation of the fees and charges that a relevant entity that is a distribution company may charge for or in connection with the costs of, or in relation to, the manual reading of meters (including meters that are part of advanced metering infrastructure and associated systems);

S. 46D(4)  
inserted by  
No. 46/2014  
s. 4(3).

- (b) empower the recovery of the fees and charges referred to in paragraph (a) from—
  - (i) a relevant entity that is a retailer or a class or classes of relevant entities that are retailers supplied with electricity by the distribution company, or all customers of a relevant entity that is a retailer or a class or classes of customers of a relevant entity that is a retailer and is so supplied;
  - (ii) an exempt seller or a class or classes of exempt sellers supplied with electricity by the distribution company, or all customers of an exempt seller or class or classes of customers of an exempt seller who is so supplied;
- (c) require a relevant entity that is a retailer or exempt seller or a distribution company to give a specified customer, or a customer of a specified class, or a person or entity authorised by a customer, information about—
  - (i) the manual reading of meters (including meters that are part of advanced metering infrastructure and associated systems);
  - (ii) when the fees and charges associated with the costs of, or in relation to, the manual reading of meters may take effect;
- (d) require a relevant entity to provide specified information to another relevant entity (the *second entity*) for the purpose of enabling that second entity to comply with a requirement of an Order made under this subsection.

(5) Without limiting subsection (1), an Order under subsection (1)(e) or (f) may prohibit a relevant entity that is a distribution company from recovering from—

S. 46D(5)  
inserted by  
No. 46/2014  
s. 4(3).

(a) specified customers who have advanced metering infrastructure and associated systems installed, costs specified under the Order for, or associated with, or related to, the manual reading of meters (including meters that are part of advanced metering infrastructure and associated systems);

(b) any customer (by way of a fee, charge or otherwise) the amount of a payment of the kind referred to in subsection (3)(a).

**46DA Interrelationship of Orders and other provisions relating to tariffs**

S. 46DA  
inserted by  
No. 55/2010  
s. 10,  
amended by  
No. 11/2013  
s. 8.

A requirement under an Order of the Governor in Council made under section 46D is in addition to, and does not limit, a requirement under section 35, 35C, 35D, 36A or 40A.

**46E General powers in relation to Orders**

S. 46E  
inserted by  
No. 60/2006  
s. 4.

(1) An Order of the Governor in Council under section 46D may be made so as to apply, adopt or incorporate wholly or partially or as amended by the Order, the provisions of any document, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether—

(a) as formulated, issued, prescribed or published at the time the Order is made or at any time before the Order is made; or

(b) as amended from time to time.

S. 46E(2A)  
inserted by  
No. 59/2008  
s. 18.

- (2) An Order of the Governor in Council under section 46D may—
- (a) confer powers and functions on, and leave any matter to be decided by, the Commission; and
  - (b) without limiting paragraph (a), direct the Commission to make amendments to any instrument made by the Commission to give effect to any matter specified in an Order made under section 46D.

S. 46E(2B)  
inserted by  
No. 59/2008  
s. 18.

- (2A) The provisions of an Order under section 46D may be of general or limited application and may differ according to differences in time, place and circumstances.

- (2B) An Order under section 46D may—
- (a) include saving and transitional provisions; and
  - (b) provide that the Commission is not required to take specified actions or make specified determinations under the Order before the commencement of section 5 of the **National Electricity (Victoria) Amendment Act 2007**.

S. 46E(2C)  
inserted by  
No. 46/2014  
s. 5.

- (2C) For the purposes of section 46D(3), an Order of the Governor in Council under section 46D may specify either one or both of the following—
- (a) a date that is a date before the date on which the Order takes effect;
  - (b) a circumstance that occurs before the Order takes effect.
- (3) An Order of the Governor in Council under section 46D has effect as from the day specified in the Order for the period specified in the Order.

- (4) An Order of the Governor in Council under section 46D has effect according to its tenor despite anything to the contrary in any agreement or contract.

## **Division 7—Community services agreements**

### **47 Community services**

- (1) An agreement by a retailer with the State for the provision of community services is an agreement for a term of not less than 5 years for the provision by the retailer of electricity to a class of domestic customers specified by the Secretary to the Department of Human Services—
- (a) at such concessional rates and in such manner and at such times as are determined by the Secretary; and
  - (b) on such other terms and conditions as are agreed between the retailer and the State or, in default of agreement, as are determined by the Secretary.
- (2) In determining terms and conditions under subsection (1)(b), the Secretary must have regard to the risks and costs associated with the obligations imposed on the retailer under the agreement and must ensure that the terms and conditions are consistent with any relevant concession order made under the **State Concessions Act 2004**.

S. 47(2)  
amended by  
No. 82/2004  
s. 13(Sch.  
item 3).

### **48 Transitional provision relating to community services**

- (1) An agreement to which this section applies that, but for this section, would cease to have effect on 31 December 2000, continues in force until the expiration of the prescribed period or terminated upon the making of a new agreement by the retailer with the State for the provision of

community services by way of the provision of electricity to certain customers, whichever first occurs.

- (2) The prescribed period is the period ending on 31 March 2001 or such other date, not later than 30 June 2001, as is agreed between the retailer and the Secretary to the Department of Human Services.
- (3) If a new agreement is not made between the retailer and the State before the expiration of the prescribed period, an agreement is deemed to have been entered into on terms and conditions determined by the Secretary in accordance with section 47.
- (4) This section applies to an agreement in force before 31 December 2000 under which a retailer agrees with the State to provide certain community services by way of the provision of electricity to customers.

S. 49  
(Heading)  
inserted by  
No. 75/2004  
s. 24(1).

#### **49 Commission may decide certain matters**

S. 49(1)  
amended by  
No. 62/2001  
s. 70(d).

- (1) The Commission, at the request of the Secretary to the Department of Human Services or a retailer, may—

S. 49(1)(a)  
amended by  
No. 75/2004  
s. 24(2)(a)(i)(ii).

- (a) decide matters referred by the Secretary or retailer for decision for the purposes of making an agreement referred to in section 47 or 48; or

S. 49(1)(b)  
amended by  
No. 75/2004  
s. 24(2)(b)(i)(ii).

- (b) if an agreement referred to in section 47 or 48 has been entered into or deemed to be entered into on terms and conditions determined by the Secretary under section 47, decide matters relating to those terms and conditions (including the variation

- of any of those terms and conditions) referred by the Secretary or retailer for decision.
- (2) A request relating to a term or condition determined by the Secretary under section 47 must be made within one month after notice of the decision is given. **S. 49(2) amended by No. 75/2004 s. 24(2)(c).**
- (3) A decision by the Commission on matters referred under subsection (1) is binding on the parties to the agreement. **S. 49(3) amended by Nos 62/2001 s. 70(d), 75/2004 s. 24(2)(c).**
- (4) If a decision of the Commission on matters referred under subsection (1) varies a term or condition of an agreement, that agreement is deemed to be so varied on that decision being made. **S. 49(4) amended by Nos 62/2001 s. 70(d), 75/2004 s. 24(2)(c).**
- (5) The matters which may be referred to the Commission under this section do not include—
- (a) any matters relating to the class of domestic customers specified by the Secretary under section 47; or
- (b) any matters determined by the Secretary under section 47(1)(a). **S. 49(5)(b) amended by No. 13/2001 s. 7.**

Pt 2 Div. 8  
(Heading and  
ss 49A-49K)  
inserted by  
No. 55/2007  
s. 3.

## Division 8—Supplier of last resort

S. 49A  
inserted by  
No. 55/2007  
s. 3.

### 49A Definitions

In this Division—

*connection point* has the same meaning as in Chapter 10 of the National Electricity Rules;

*defaulting licensee* has the meaning given by section 49D(5);

*distribution services* means services provided by means of a distribution system;

*insolvency official* means an administrator, liquidator, provisional liquidator, receiver or receiver and manager;

*metering installation* has the same meaning as in Chapter 10 of the National Electricity Rules;

*network tariff code* means the descriptor assigned by a distribution company to its charges for distribution services or charges for classes of distribution services that it supplies;

*related relevant customer information* has the meaning given by section 49B;

*relevant customer* means a person, or a member of a class of persons, to whom an Order under section 49C(1) applies;

*relevant customer information* means the following information—

- (a) the name and contact details of a relevant customer; and
- (b) the address of a relevant customer for electricity billing purposes; and

- (c) the address of a relevant customer at which the relevant customer is supplied electricity if that address is different from the address for electricity billing purposes; and
- (d) the national metering identifier (as defined in clause 7.3.1 of the National Electricity Rules) and issued under that clause for the metering installation relating to the connection point at which a relevant customer is supplied electricity; and
- (e) the network tariff code or network tariff codes relating to the distribution services supplied by a distribution company to enable a relevant customer to be supplied electricity; and
- (f) details of a relevant customer's average monthly electricity consumption at premises where the relevant customer is supplied electricity, calculated on the basis of that customer's monthly electricity consumption at the premises in the 12 months immediately prior to the occurrence of the trigger event; and
- (g) information evidencing whether a relevant customer is an eligible beneficiary (within the meaning of the **State Concessions Act 2004**); and
- (h) details of any continuous supply arrangements for a relevant customer who requires that kind of supply because of a medical condition;

*relevant customer information notice* means a notice given under section 49G(2) or (3);

*specified relevant customer information* means relevant customer information or related relevant customer information specified in a notice under section 49G(2) or (3);

*supplier of last resort* means a licensee who—

- (a) holds a licence the conditions of which are subject to a requirement of the kind specified in section 49D(1); and
- (b) by operation of section 49D(5), is obliged to supply or sell electricity to a relevant customer in accordance with that requirement;

*trigger event* means an event specified in section 49D(5)(a) or (b).

S. 49B  
inserted by  
No. 55/2007  
s. 3.

#### **49B Meaning of related relevant customer information**

Related relevant customer information is information relating to a relevant customer of a defaulting licensee (that is not relevant customer information) that the Commission considers a supplier of last resort must have in order for that supplier to perform its obligation under section 49D(5) in relation to that relevant customer.

S. 49C  
inserted by  
No. 55/2007  
s. 3.

#### **49C Relevant customers for the purposes of this Division**

- (1) The Governor in Council may, by Order published in the Government Gazette, declare that a person or a class of persons specified in the Order is, for the purposes of this Division, a relevant customer or class of relevant customers.
- (2) An Order under subsection (1) may specify a class of persons by reference to all or any of the following—
  - (a) the person authorised to sell the electricity;
  - (b) the purpose for which the electricity is used;

- (c) the quantity of electricity used;
  - (d) the period of use;
  - (e) the place of supply;
  - (f) any other specified factor relevant to the sale of electricity.
- (3) An Order under subsection (1) may confer powers and functions on, and leave any matter to be decided by, the Commission.

**49D Licence condition—supplier of last resort**

S. 49D  
inserted by  
No. 55/2007  
s. 3.

- (1) Without limiting the generality of section 20, the conditions to which a licence to distribute or supply, or to sell, electricity is subject may include a requirement that, in certain circumstances, the licensee, at tariffs and on terms and conditions approved by the Commission, having regard to the matters referred to in subsection (2), supply or sell electricity to relevant customers to whom electricity is supplied or sold under another such licence (whether held by that licensee or another licensee).
- (2) In approving the tariffs and terms and conditions of a requirement referred to in subsection (1), the Commission must have regard to—
- (a) the risks and costs associated with the requirement; and
  - (b) the extent to which the licensee or another licensee has developed systems to comply with such a requirement; and
  - (c) any tariffs and terms and conditions proposed by the licensee whether or not at the request of the Commission.

- (3) A requirement referred to in subsection (1) does not apply so as to require the licensee to supply or sell electricity—
- (a) if the licensee's licence provides for a distribution area, outside that area; or
  - (b) to a customer to whom electricity is supplied or sold under another licence if the customer elects, in writing given to the holder of that other licence, not to be a customer of that other licensee for the purposes of subsection (1).
- (4) If the conditions to which a licence of a licensee is subject include a requirement referred to in subsection (1), the licensee is deemed to be the holder of a licence to sell electricity to the extent necessary to comply with the requirement.
- (5) The obligation of a licensee to supply or sell electricity to a relevant customer to whom electricity is supplied or sold by another licensee (the *defaulting licensee*) in accordance with the requirement referred to in subsection (1) commences when—
- (a) the defaulting licensee's licence is revoked; or
  - (b) the right of the defaulting licensee to acquire electricity from the wholesale electricity market is suspended or terminated—
- whichever first occurs.
- (6) The obligation of the supplier of last resort ends—
- (a) 3 months after its commencement; or
  - (b) when the customer advises the supplier of last resort that the supply or sale is no longer required; or

- (c) when the customer transfers to become the customer of another licensee; or
- (d) when the customer enters into a new contract with the supplier of last resort for the supply or sale of electricity—

whichever first occurs.

- (7) The Commission must notify the supplier of last resort, as soon as practicable, of the commencement of the supplier of last resort's obligation under subsection (5).

**49E Tariffs, terms and conditions for electricity supply following trigger event**

S. 49E  
inserted by  
No. 55/2007  
s. 3.

- (1) This section applies if a trigger event occurs.
- (2) The tariffs and terms and conditions upon which a supplier of last resort will supply or sell electricity to relevant customers of a defaulting licensee are—
  - (a) the tariffs and terms and conditions approved by the Commission after proposed tariffs, terms and conditions have been submitted by that supplier for approval; or
  - (b) if—
    - (i) the supplier has submitted tariffs, terms and conditions for approval and any changes proposed by the Commission are not adopted by the supplier within one month after being proposed; or

(ii) if the supplier, after being given at least one month's notice to submit proposed tariffs, terms and conditions to the Commission, fails to comply with the request—

the tariffs, terms and conditions specified by the Commission as the approved tariffs, terms and conditions.

- (3) The supplier of last resort or, if the Commission specifies the tariffs and terms and conditions, the Commission, must cause notice of the approved tariffs, terms and conditions to be published in the Government Gazette.
- (4) The tariffs and terms and conditions of which notice has been published in accordance with subsection (3) are binding on the supplier of last resort and the relevant customers to which they apply and, when the supplier of last resort is acting in accordance with those tariffs, terms and conditions, they have effect despite any agreement or instrument to the contrary relating to the distribution or supply, or sale, of electricity to relevant customers.
- (5) A supplier of last resort and a relevant customer to whom the supplier of last resort has an obligation under section 49D(5) to supply or sell electricity are deemed to have entered into a contract on the relevant tariffs, terms and conditions published under subsection (3).
- (6) The terms and conditions of a requirement referred to in section 49D(1) may include a condition setting out circumstances in which a licensee must continue to supply or sell electricity to a relevant customer to whom the supplier of last resort supplies or sells electricity under an obligation under section 49D(5) after that

obligation comes to an end in accordance with section 49D(6)(a).

- (7) A condition referred to in subsection (6) must provide for the tariff or tariffs and the terms and conditions for the continued supply or sale of electricity to be determined by the supplier of last resort.

**49F Variation of tariffs, terms and conditions for electricity supply by supplier of last resort**

S. 49F  
inserted by  
No. 55/2007  
s. 3.

- (1) Tariffs, terms and conditions approved or specified by the Commission under section 49E may be varied from time to time.
- (2) Section 49E applies to a variation under this section in the same manner as it applies to the approval or specification of a tariff, term or condition.
- (3) If a variation is approved or specified under this section, section 49E(4) and (5) apply to the tariffs, terms and conditions as so varied.

**49G Supply of specified relevant customer information after trigger event**

S. 49G  
inserted by  
No. 55/2007  
s. 3.

- (1) This section applies if a trigger event occurs.
- (2) The Commission, by written notice, may request a defaulting licensee, or if an insolvency official has been appointed for the defaulting licensee, the insolvency official, for—
- (a) relevant customer information; and
- (b) related relevant customer information—
- specified in the notice.

- (3) A supplier of last resort, by written notice, may request—
- (a) a defaulting licensee; or
  - (b) if an insolvency official has been appointed for the defaulting licensee, the insolvency official—
- for relevant customer information specified in the notice.
- (4) The Commission or the supplier of last resort is not entitled to request information under subsection (2) or (3) in respect of a relevant customer after the obligation of the supplier of last resort specified in section 49D(5) ends in accordance with section 49D(6) in respect of that customer.
- (5) A notice under subsection (2) or (3) must—
- (a) state the name of the supplier of last resort and the contact details of a representative of the supplier; and
  - (b) specify the day by when the specified relevant customer information must be given to the Commission or supplier of last resort (as the case requires), being a day that is not less than 3 days after the date of the notice; and
  - (c) set out the details of the trigger event; and
  - (d) specify the manner in which the specified relevant customer information must be given; and
  - (e) state that this notice is given under this section; and

- (f) include a statement to the effect that if section 49H(1) is contravened, proceedings may be brought under section 49J or the **Essential Services Commission Act 2001** in respect of that contravention.

**Note**

A proceeding may be brought under the Essential Services Commission Act 2001 in respect of a defaulting licensee who is in breach of the licence condition specified in section 49H.

**49H Compliance with a relevant customer information notice**

S. 49H  
inserted by  
No. 55/2007  
s. 3.

- (1) A defaulting licensee, or an insolvency official appointed for a defaulting licensee, must comply with a relevant customer information notice that is given to them if the defaulting licensee or insolvency official has the specified relevant customer information in their possession, custody or control.
- (2) Without limiting section 20, subsection (1) is deemed to be a licence condition of a defaulting licensee whose licence has not been revoked.

**49I Commission to give specified relevant customer information it is given to supplier of last resort**

S. 49I  
inserted by  
No. 55/2007  
s. 3.

On being given specified relevant customer information, the Commission must give that information to the supplier of last resort that is obliged under section 49D(5) to supply or sell electricity to the relevant customer to which that information relates.

S. 49J  
inserted by  
No. 55/2007  
s. 3.

#### **49J Proceedings for contravention of requirement to comply with relevant customer information notice**

- (1) This section applies if—
  - (a) the Commission or a supplier of last resort gives a relevant customer information notice to a defaulting licensee or an insolvency official appointed for a defaulting licensee; and
  - (b) the defaulting licensee or insolvency official does not comply with any aspect of the notice.
- (2) The Supreme Court, on an application by the Commission or the supplier of last resort that gave the relevant customer information notice may, by order, declare whether or not the defaulting licensee or insolvency official to which the application relates has contravened section 49H(1).
- (3) If the order declares the person to have contravened section 49H(1), the order may include a requirement that the defaulting licensee or insolvency official take such action, or adopt such practice, as the Supreme Court requires for remedying the contravention or preventing a recurrence of the contravention.

S. 49K  
inserted by  
No. 55/2007  
s. 3,  
amended by  
No. 51/2012  
s. 4.

#### **49K Corporations Act displacement**

This Division is declared to be a Corporations legislation displacement provision for the purposes of section 5G of the Corporations Act in relation to the provisions of Chapter 2D and Chapter 5 of that Act.

#### **Note**

Section 5G of the Corporations Act provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision, any provision of the Corporations legislation with which the State provision would otherwise be

Electricity Industry Act 2000  
No. 68 of 2000  
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inconsistent does not apply to the extent necessary to avoid the inconsistency.

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**Pt 3  
(Headings  
and ss 50–78)  
amended by  
Nos 13/2001  
ss 8, 9,  
32/2001  
s. 28(4)–(6),  
44/2001  
s. 3(Sch.  
items 34.2–  
34.6), 62/2001  
s. 70(c)(d)(j),  
85/2001  
ss 4(1), 8,  
24/2002 s. 21,  
75/2004  
ss 25–30,  
21/2012  
s. 239(Sch. 6  
items 15.4–  
15.6),  
repealed by  
No. 11/2013  
s. 4.**

## Part 4—Protection of critical electricity infrastructure

Pt 4  
(Headings  
and ss 79–84)  
amended by  
Nos 13/2001  
s. 10, 62/2001  
s. 70(c)(d),  
85/2001  
s. 4(1),  
40/2003 ss 20,  
21, 75/2004  
s. 31, 8/2005  
s. 14(3),  
55/2007 s. 13,  
repealed by  
No. 23/2009  
s. 12, new Pt 4  
(Heading and  
ss 79, 80)  
inserted by  
No. 72/2009  
s. 5.

New s. 79  
inserted by  
No. 72/2009  
s. 5.

### **79 Being on premises or land or in enclosure where there is critical electricity infrastructure prohibited**

A person must not be present on land or premises on which, or in an enclosure in which, critical electricity infrastructure is situated knowing that he or she does not have authority to be present on that land or those premises or in that enclosure.

Penalty: Imprisonment for 1 year.

New s. 80  
inserted by  
No. 72/2009  
s. 5.

### **80 Unauthorised interference with critical electricity infrastructure plant or equipment or vehicles**

- (1) A person who—
- (a) damages, interferes or tampers with, or attaches a thing to plant or equipment that forms part of critical electricity infrastructure or that is on land or premises on which, or in an enclosure in which, critical electricity infrastructure is situated (the *prohibited act*); and

- (b) knows that he or she does not have authority to do the prohibited act; and
- (c) is reckless as to whether the prohibited act will result in a disruption to the generation, transmission or distribution of electricity—

is guilty of an offence and liable to a term of imprisonment not exceeding 2 years.

**Examples**

Examples of plant or equipment are: bucket dredgers, conveyer belts, boilers, pumps, cooling towers, pipelines, sprays, turbines, transformers, switching equipment, telemetry equipment and emergency services equipment.

- (2) A person who—
  - (a) damages, interferes or tampers with, or attaches a thing to a relevant infrastructure vehicle that is on land or premises on which, or in an enclosure in which, critical electricity infrastructure is situated (the *prohibited act*); and
  - (b) knows that he or she does not have authority to do the prohibited act; and
  - (c) is reckless as to whether the prohibited act will result in a disruption to the generation, transmission or distribution of electricity—

is guilty of an offence and liable to a term of imprisonment not exceeding 2 years.

- (3) In subsection (2), *relevant infrastructure vehicle* means a vehicle used as part of the production process for the generation of electricity or for the purpose of maintaining critical electricity infrastructure.

## Part 5—Powers of electricity corporations

### 85 Definitions

In this Part—

S. 85 substituted by No. 9/2006 s. 157(1).

*electricity corporation* means a distribution company, a transmission company or a generation company;

S. 85 def. of *electricity corporation* amended by No. 23/2009 s. 13.

*rail infrastructure* means rail infrastructure within the meaning of the **Rail Safety (Local Operations) Act 2006** or the Rail Safety National Law (Victoria);

S. 85 def. of *rail infrastructure* substituted by No. 22/2013 s. 54(a).

\* \* \* \* \*

S. 85 def. of *rail operations* repealed by No. 22/2013 s. 54(d).

\* \* \* \* \*

S. 85 def. of *rail operator* repealed by No. 22/2013 s. 54(d).

*rail transport operator* means a rail transport operator within the meaning of the **Rail Safety (Local Operations) Act 2006** or the Rail Safety National Law (Victoria);

S. 85 def. of *rail transport operator* inserted by No. 22/2013 s. 54(c).

*railway operations* means railway operations within the meaning of the **Rail Safety (Local Operations) Act 2006** or the Rail Safety National Law (Victoria);

S. 85 def. of *railway operations* inserted by No. 22/2013 s. 54(c).

*rolling stock* means rolling stock within the meaning of the **Rail Safety (Local Operations) Act 2006** or the Rail Safety National Law (Victoria);

S. 85 def. of *rolling stock* substituted by No. 22/2013 s. 54(b).

*works contractor* means a person engaged directly or indirectly by an electricity corporation to carry out an activity referred to in section 93 on behalf of the electricity corporation, and includes a sub-contractor.

**86 Power to acquire easements with approval of Governor in Council**

(1) A corporation to which this section applies may, with the approval of the Governor in Council, acquire compulsorily an easement for the purposes of—

S. 86(1)  
amended by  
No. 40/2003  
s. 22.

(a) erecting or laying power lines (or both); and

S. 86(1)(a)  
inserted by  
No. 40/2003  
s. 22.

(b) maintaining power lines.

S. 86(1)(b)  
inserted by  
No. 40/2003  
s. 22.

(2) The **Land Acquisition and Compensation Act 1986** applies to this section and for that purpose—

(a) the **Electricity Industry Act 2000** is the special Act; and

(b) the corporation to which this section applies is the Authority.

(3) In this section—

*corporation to which this section applies* means a distribution company, a transmission company or a generation company;

*easement* includes right, charge, power or privilege in, under, over, affecting or in connection with, land.

## 87 Acquisition of land within Latrobe area

S. 87(1)  
amended by  
No. 63/2006  
s. 61(Sch.  
item 10).

(1) A generation company or an associated entity of a generation company may recommend to the Minister administering the **Mineral Resources (Sustainable Development) Act 1990** the compulsory acquisition of any land within the Latrobe area which is or may be required by the generation company or associated entity for or in connection with, or as incidental to, carrying out operations under a licence issued to the company under Part 2.

(2) The **Land Acquisition and Compensation Act 1986** applies to this section and for that purpose—

(a) the **Electricity Industry Act 2000** is the special Act; and

(b) the Minister administering the **Mineral Resources (Sustainable Development) Act 1990** is the Authority.

S. 87(2)(b)  
amended by  
No. 63/2006  
s. 61(Sch.  
item 10).

(3) Despite anything to the contrary in the **Land Acquisition and Compensation Act 1986**, section 109(2) of that Act does not apply to land acquired in accordance with this section by the Minister administering the **Mineral Resources (Sustainable Development) Act 1990**.

(4) In this section—

*associated entity*, in relation to a generation company, means a person to whom an exemption under section 17 applies in respect of an activity relating to the generation of electricity for supply or sale,

being an activity for which the generation company holds a licence under Part 2;

***Latrobe area*** means the municipal district of the Shire of LaTrobe.

### **88 Making of easements in subdivisions**

- (1) If a proposal for subdivision or consolidation of land is referred to an electricity corporation under the **Planning and Environment Act 1987**, the corporation may require easements for the use of the corporation for any one or more of the purposes set out in the Schedule.
- (2) The creation of an easement for a purpose specified in Column 1 of the Schedule gives to the corporation the rights specified in relation to an easement created for that purpose in Column 2 of the Schedule.

### **89 Certain easements may be used for carriage service**

- (1) Despite anything to the contrary in any Act or instrument, an easement to which a transmission company is entitled may be used by a transmission company for the provision by it or another person of a carriage service within the meaning of the Telecommunications Act 1997 of the Commonwealth.
- (2) Nothing in this Act authorises a transmission company to acquire compulsorily land or an interest in land for the purposes only of a carriage service within the meaning of subsection (1).

### **90 Easements over lands held by Crown licensees or lessees**

- (1) If an easement acquired by an electricity corporation for any of the purposes of this Act is an easement over land held or occupied by any licensee or lessee of the Crown, a description of the easement and a notification it has been so

**S. 90(1)**  
**amended by**  
**No. 49/2015**  
**s. 12.**

S. 90(2)  
amended by  
No. 49/2015  
s. 12.

acquired must be forwarded without delay by the corporation to the Secretary to the Department of Environment, Land, Water and Planning.

- (2) If an easement referred to in subsection (1) is over land held or occupied under licence, the description and notification must be endorsed on the licence by the Secretary to the Department of Environment, Land, Water and Planning and be registered in that Department.
- (3) If a Crown grant is issued to a person of the land over which any such easement has been taken, the grant is subject to the easement.

## **91 Arrangements for joint use of easements**

Despite anything to the contrary in this Act—

- (a) any two or more of the electricity corporations, distribution companies, transmission companies and generation companies may enter into an agreement for the exercise of rights and privileges, and undertaking of obligations, by a party to the agreement in respect of any easement, right or privilege to which another party to the agreement is entitled; and
- (b) any such agreement takes effect according to its terms.

## **92 Cancellation of easements**

- (1) If—
  - (a) a generation company enters into an agreement to grant an easement over its land to any person; and
  - (b) that easement is registered under the **Transfer of Land Act 1958**; and

- (c) that agreement provides for the termination of the easement or part of the easement on the giving of notice by the generation company to the person to whom the easement is granted or any successor in title of that person; and
- (d) the generation company gives that notice in accordance with the agreement—

the generation company may give written notice to the Registrar of Titles of the termination of the easement, together with a copy of the agreement and of the notice under paragraph (d).

- (2) On being notified under subsection (1), the Registrar of Titles must record in the Register the extinguishment of the easement or part.

### **93 Powers as to works etc.**

- (1) For the purposes of this Act, an electricity corporation, subject to this Act—
  - (a) may enter upon any lands and sink bores and make surveys and do any other acts or things necessary for sinking bores or making surveys; and
  - (b) may, with any equipment or devices, receive, store, transmit, or supply electricity, water, brown coal or products of brown coal over, or under, any land and may enter on any land upon either side of such equipment and fell or remove any tree or part of a tree or any obstruction which in the opinion of the electricity corporation it is necessary to fell or remove; and

S. 93(1)(d)  
amended by  
No. 12/2004  
s. 170(1).

- (c) subject to the **Water Act 1989**, may divert water from any waterway, lake, lagoon, swamp or marsh, or alter the bed, course or channel of any waterway; and
  - (d) subject to the **Road Management Act 2004**, may enter upon any public or private land or roads and construct any works or place on under or over any such land or road any structure or equipment and may repair, alter or remove any such structure or equipment or any works under its control; and
  - (e) may do all other things necessary or convenient for constructing, maintaining, altering, or using any works or undertakings of, or under the control of, the electricity corporation.
- (2) In the exercise of the powers under subsection (1), an electricity corporation must do as little damage as may be and, must, if required within 2 years from the exercise of the powers, make full compensation to the owner of and all parties interested in any land for any damage sustained by them in consequence of the exercise of the powers.
- (3) Compensation under subsection (2) shall be either a gross sum or a yearly rent as may be agreed and, in default of agreement, shall be determined in the manner provided in the **Land Acquisition and Compensation Act 1986**.
- (4) An electricity corporation may exercise its powers under this section by its officers or employees or by any other person authorised in writing by it or by the officers or employees of any such person.

- (5) This section applies—
- (a) to a distribution company, transmission company and a generation company holding a licence under Part 2; and
  - (b) to the holder of any other licence under Part 2 as if a reference in this section to an electricity corporation included a reference to the holder—
- and so applies—
- (c) subject to the conditions of the licence in relation to the exercise of powers under this section; and
  - (d) subject to any access code applying in relation to the exercise of powers under this section issued by the Commission. S. 93(5)(d) amended by No. 62/2001 s. 70(k).
- (6) The entitlement to compensation under subsection (2) is not affected by—
- (a) anything to the contrary in the **Road Management Act 2004**; or
  - (b) any right conferred by, or any obligation or duty imposed under, the **Road Management Act 2004**. S. 93(6) inserted by No. 12/2004 s. 170(2).
- (7) An access code issued by the Commission under this section must not confer any right or power, or impose any obligation or duty, which is inconsistent with the **Road Management Act 2004**. S. 93(7) inserted by No. 12/2004 s. 170(2).
- (8) An access code has no effect to the extent of any inconsistency under subsection (7). S. 93(8) inserted by No. 12/2004 s. 170(2).

S. 93A  
inserted by  
No. 9/2006  
s. 157(2).

**93A Safety duties in relation to works on or in immediate vicinity of rail infrastructure or rolling stock**

- (1) An electricity corporation must, when exercising a power under section 93 on or in the immediate vicinity of rail infrastructure or rolling stock, ensure, so far as is reasonably practicable, that it exercises the power safely.

Penalty: 9000 penalty units.

- (2) A works contractor must, when carrying out an activity referred to in section 93 on or in the immediate vicinity of rail infrastructure or rolling stock, ensure, so far as is reasonably practicable, that he, she or it carries out the activity safely.

Penalty: In the case of a natural person,  
1800 penalty units;

In the case of a body corporate,  
9000 penalty units.

- (3) An offence against subsection (1) or (2) is an indictable offence.

Note to  
s. 93A(3)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 49.1).

**Note**

However, the offence may be heard and determined summarily (see section 28 of the **Criminal Procedure Act 2009**).

S. 93B  
inserted by  
No. 9/2006  
s. 157(2).

**93B Notification of owners or occupiers of land on which there is rail infrastructure or rolling stock**

An electricity corporation must, before exercising a power under section 93 on land on which there is rail infrastructure or rolling stock, notify the owner or occupier of that land of the intended exercise of the power if the exercise of that power will threaten, or is likely to threaten, the safety of that rail infrastructure or rolling stock.

Penalty: 300 penalty units.

**93C Notification of electricity corporations before railway operations carried out**

S. 93C  
(Heading)  
amended by  
No. 22/2013  
s. 55(1).

S. 93C  
inserted by  
No. 9/2006  
s. 157(2).

- (1) A rail transport operator must, before carrying out railway operations that will threaten, or are likely to threaten, the safety of an electricity corporation's works, or the safe provision by the electricity corporation of electricity or other like services, notify that electricity corporation of the rail transport operator's intention to carry out those operations.

S. 93C(1)  
amended by  
No. 22/2013  
s. 55(2).

Penalty: In the case of a natural person,  
60 penalty units;

In the case of a body corporate,  
300 penalty units.

- (2) In this section—

*works* includes power lines, equipment, devices, structures or undertakings.

**94 Rateability of certain property**

\* \* \* \* \*

S. 94(1)  
repealed by  
No. 23/2009  
s. 14.

- (2) Despite anything to the contrary in the **Local Government Act 1989**, land is not occupied land for the purposes of that Act merely because any pole, wire or cable of a distribution company, transmission company or generation company is on, under or over that land.

(3) The Loy Yang B land is rateable land and an agreement under section 27 of the **Loy Yang B Act 1992** in force immediately before 8 May 1997 has effect as if it had been entered into under subsection (4)(a) of this section.

(4) Despite anything in the **Local Government Act 1989**—

S. 94(4)(a)  
amended by  
No. 1/2017  
s. 10(1)(a).

(a) a generation company, an associated entity of a generation company or an exempt generator that is liable to pay rates in respect of land used for generation functions may, instead of paying rates in respect of that land, elect by notice in writing given to the relevant council to pay amounts agreed or determined under subsection (5); or

S. 94(4)(b)  
amended by  
No. 1/2017  
s. 10(1)(b).

(b) the relevant council may, by notice in writing given to a generation company, an associated entity of a generation company or an exempt generator that is liable to pay rates in respect of land used for generation functions, require that company, associated entity or exempt generator to pay, instead of rates in respect of that land, amounts agreed or determined under subsection (5).

S. 94(5)  
amended by  
No. 1/2017  
s. 10(2).

(5) A generation company, associated entity or exempt generator that elects to, or is required to, pay amounts under this subsection must pay to the relevant council—

S. 94(5)(a)  
amended by  
No. 1/2017  
s. 10(2).

(a) such amount or amounts as are agreed between the generation company, associated entity or exempt generator and the relevant council, at such times as are so agreed; or

S. 94(5)(b)  
amended by  
No. 1/2017  
s. 10(2).

(b) if, at any time, the amount required to be paid is not the subject of an agreement under paragraph (a) or the prior determination of an

arbitrator, such amount and at such times as are determined by an arbitrator jointly appointed by the generation company, associated entity or exempt generator and the relevant council or, if within a reasonable time they fail to agree on such an appointment, by the chairperson of the Victoria Grants Commission as arbitrator or by another arbitrator nominated by that chairperson.

- |  |   |
|--|---|
| (6) In determining an amount required to be paid under subsection (5), an arbitrator must have regard to any methodology prescribed by an Order under subsection (6A).   | S. 94(6) substituted by No. 33/2005 s. 4(1).                            |
| (6A) The Governor in Council may, by Order published in the Government Gazette, prescribe a methodology for determining amounts payable under subsection (5).  | S. 94(6A) inserted by No. 33/2005 s. 4(1).                              |
| (6B) A power may only be exercised under subsection (6A) on the joint recommendation of the Minister and the Minister administering the <b>Local Government Act 1989</b> .   | S. 94(6B) inserted by No. 33/2005 s. 4(1).                              |
| (7) The <b>Commercial Arbitration Act 2011</b> applies to arbitrations under this section.   | S. 94(7) amended by No. 50/2011 s. 46(Sch. item 5.1).                   |
| (8) Section 221 of the <b>Local Government Act 1989</b> does not apply in relation to land owned or occupied by a generation company, an associated entity of a generation company or an exempt generator which is land used for generation functions. | S. 94(8) amended by No. 1/2017 s. 10(3).                                |
| (8A) A generation company, an associated entity of a generation company or an exempt generator is deemed for the purposes of this section to be liable to pay rates in respect of land used for generation functions if the generation                 | S. 94(8A) inserted by No. 25/2004 s. 9, amended by No. 1/2017 s. 10(4). |

company, the associated entity or the exempt generator—

- (a) is liable to pay rates in respect of the land under the **Local Government Act 1989**; or
- (b) is liable to pay rates in respect of the land under an agreement with the person who is liable to pay rates in respect of the land under the **Local Government Act 1989**.

(9) In this section—

***associated entity***, in relation to a generation company, means a person to whom an exemption under section 17 applies in respect of an activity relating to the generation of electricity for supply or sale, being an activity for which the generation company holds a licence under Part 2;

***exempt generator*** means a person to whom an exemption under an Order made under section 17 applies in respect of the generation of electricity for supply or sale;

***land used for generation functions*** means land used primarily for the generation of electricity on which a generation facility is situated—

- (a) whether or not the land consists of more than one parcel of land; and
- (b) if the land consists of more than one parcel, whether or not those parcels are contiguous or in the same ownership;

***Loy Yang B land*** means the land shown hatched on the plan in Schedule 2 to the **Loy Yang B Act 1992**;

S. 94(9) def. of ***exempt generator*** inserted by No. 1/2017 s. 10(5)(a).

S. 94(9) def. of ***land used for generation functions*** substituted by No. 33/2005 s. 4(2)(a), amended by No. 1/2017 s. 10(5)(b).

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***relevant council*** means any council in whose municipal district any land used for generation functions (or any part of that land) is situated.

S. 94(9) def. of ***relevant council*** substituted by No. 33/2005 s. 4(2)(b).

## **Part 6—Electricity supply emergency provisions**

### **Division 1—Emergency provisions**

#### **95 Proclamation that this Part applies**

- (1) If it appears to the Governor in Council that—
  - (a) an event has occurred, or is about to occur, which may endanger an undertaking of a distribution company, a transmission company or a generation company or a person who supplies electricity to another person or materially affect the safe, economical or effective supply of electricity; or
  - (b) the available supply of electricity is, or is likely to become, less than is sufficient for the reasonable requirements of the community—

the Governor in Council may by proclamation declare that this Part is to apply.

- (2) The proclamation must be published in the Government Gazette.
- (3) The proclamation takes effect on the date of its publication.
- (4) The Governor in Council may at any time revoke a proclamation.

S. 95(4)  
inserted by  
No. 32/2001  
s. 28(7).

#### **96 Powers of Minister**

- (1) While a proclamation is in force, the Minister may give any directions that the Minister thinks necessary to—

- (a) protect any undertaking of a distribution company, a transmission company or a generation company or a person who supplies electricity to another person; or
  - (b) ensure the safe, economical or effective supply of electricity; or
  - (c) ensure that the available electricity is fairly distributed to the community; or
  - (d) increase the available supply of electricity; or
  - (e) regulate the use of the available supply of electricity, having regard to the needs of the community.
- (2) Without limiting subsection (1), the Minister may, by notice in writing, do all or any of the following—
- (a) give any directions that are necessary to control, direct, authorise conduct in relation to, restrict or prohibit the supply, distribution, sale, use or consumption of electricity;
  - (b) direct a person or body to carry out any work required to ensure the generation, supply or distribution of electricity;
  - (c) direct a person or body to maintain or operate any services required to ensure the generation, supply or distribution of electricity;
  - (d) requisition the use of property of any kind which is used, or may be used, for or in connection with the generation, supply or distribution of electricity;
  - (e) operate, use, dispose of, distribute, store, repair and maintain any such property;

- (f) authorise a person specified in the notice to enter any land, building or structure used for or in connection with the provision of electricity;
  - (g) authorise a person specified in the notice to withdraw the supply of electricity from any consumer the person reasonably believes is in breach of any direction given under paragraph (a);
  - (h) provide, by direction, for any matter or thing incidental to the carrying into effect of the powers referred to in this section.
- (3) A direction—
- (a) may operate generally, or may be limited in its operation according to specified times, places, circumstances, conditions or restrictions; and
  - (b) may, if so specified in the direction, allow the Minister to exempt a person or body from having to comply with the direction; and
  - (c) may be addressed or directed to people and bodies generally or particularly; and
  - (d) subject to subsection (7), takes effect when made or, if a later time is specified in the direction, at that later time; and
  - (e) has effect as if enacted in this Act.
- (4) A direction including a direction under subsection (6) must be published in the Government Gazette as soon as possible after it is made.
- (5) Notice of a requisition relating to a class of property must be published in the Government Gazette as soon as possible after it is made.

- (6) The Minister may at any time by direction under this section amend or revoke a direction made, or purportedly made, under this section or may return requisitioned property.
- (7) If a direction of the Minister under subsection (6) amending an earlier direction for the purpose of correcting a defect, mistake or omission—
- (a) includes the statement that the earlier direction is deemed to have been made as so amended; and
  - (b) is made not later than 3 months after the earlier direction was made—
- the earlier direction is deemed to have been made as so amended.
- (8) If the Minister requisitions the use of property under subsection (2)(d), the reasonable costs of compensating the owner of that property for the requisition and making good any damage resulting from the requisition must be determined by the Minister.
- (9) If there is a dispute as to the Minister's determination, the Minister must refer the matter for arbitration by a sole arbitrator under the **Commercial Arbitration Act 2011**.
- (10) Requisitioned property that has not been disposed of must be returned as soon as it is safe to do so after the Governor in Council revokes a proclamation.
- (11) The amendment, revocation or expiry of a direction does not affect—
- (a) the previous operation of the direction; or
  - (b) the validity of any action taken under the direction before the amendment, revocation or expiry; or

S. 96(9)  
amended by  
No. 50/2011  
s. 46(Sch.  
item 5.2).

- (c) any penalty or punishment incurred in respect of any failure to comply with the direction before the amendment, revocation or expiry or any proceeding or remedy in respect of the penalty or punishment.

## **97 Offences**

- (1) A person or body who is aware of a direction under section 96 must comply with the direction.
- (2) A person—
  - (a) to whom electricity is supplied; and
  - (b) who is aware of a direction restricting or prohibiting the use of electricity—must do everything reasonably possible to ensure that electricity is not used on the land or premises to which the electricity is supplied in contravention of the direction.
- (3) A person must not obstruct another person—
  - (a) exercising a power given to; or
  - (b) complying with an obligation imposed on—the other person under section 96 if the person has been shown a copy of the notice giving the power or imposing the obligation.
- (4) A person is deemed to be aware of a direction if the Minister has caused—
  - (a) the direction to be published in a newspaper circulating throughout the area in which the direction applies; or
  - (b) details of the direction to be broadcast by means of radio or television transmission throughout the area in which the direction applies.

- (5) In any proceedings for an offence against this section, a certificate purporting to be signed by the Minister to the effect that details of a direction were broadcast by means of radio or television transmission throughout a particular area on a specified day is evidence of the facts set out in the certificate.
- (6) In any proceedings for an offence against this section, if a direction was made in respect of part of a day and first broadcast on that day, it is sufficient defence for the accused to prove that at the time of the commission of the offence, the accused—
- (a) did not know; and
  - (b) could not reasonably have known—
- of the direction.
- (7) A person must not contravene subsection (1), (2) or (3).
- Penalty: in the case of a natural person,  
100 penalty units.  
in the case of a body corporate,  
10 000 penalty units.
- (8) An offence by a body corporate under subsection (7) is an indictable offence.
- (9) If an offence is committed by a person by reason of a failure to comply, within the period specified in a direction under subsection (1), with the requirements specified in the direction, the offence, for the purposes of subsection (10) is deemed to continue so long as any requirement specified in the direction remains undone, whether or not the period has elapsed.

S. 97(6)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 49.2).

- (10) If, under subsection (9), an offence is deemed to continue, the person who committed the offence commits an additional offence on each day during which the offence is deemed to continue and is liable, upon conviction for such an additional offence, to a penalty not exceeding one tenth of the penalty for the first-mentioned offence.
- (11) If a body corporate commits an offence against this section, any officer of the body corporate who was in any way, by act or omission, directly or indirectly knowingly concerned in or party to the commission of the offence is also guilty of that offence and liable to the penalty for it.
- (12) An offence under subsection (11) is an indictable offence.
- (13) A person may be proceeded against and convicted under a provision in accordance with subsection (11) whether or not the body corporate has been proceeded against or convicted under that provision.
- (14) If in a proceeding for an offence against this section it is necessary to establish the intention of a body corporate, it is sufficient to show that a servant or agent of the body corporate had that intention.
- (15) In subsection (11), *officer*, in relation to a body corporate, means—
- (a) a director, secretary or executive officer of the body corporate; or
  - (b) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act; or
  - (c) a person concerned in the management of the body corporate.

- (16) If this section provides that a person is guilty of an offence, that reference to a person must—
- (a) in the case of a partnership, be read as a reference to each member of the partnership; and
  - (b) in the case of an unincorporated body or association, be read as a reference to each member of the committee of management of the body or association.

### **98 Judicial notice**

All courts and any person acting judicially must take judicial notice of any proclamation, direction or general requisition made, given or imposed under this Part.

### **99 Immunity from suit**

A person acting in good faith in the execution of this Part or any proclamation or direction under this Part is not liable to any action, claim or demand on account of any damage, loss or injury sustained or alleged to be sustained because of the operation of this Part or of any thing done or purporting to be done under this Part or any proclamation or direction under this Part.

### **99A Corporations Act displacement**

This Division is declared to be a Corporations legislation displacement provision for the purposes of section 5G of the Corporations Act in relation to the provisions of Chapter 2D and Chapter 5 of that Act.

**S. 99A  
inserted by  
No. 51/2012  
s. 5.**

#### **Note**

Section 5G of the Corporations Act provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision, any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not apply to the extent necessary to avoid the inconsistency.

## **Division 2—Enforcement**

### **100 Powers of entry—enforcement**

- (1) If an enforcement officer has reasonable grounds for suspecting that there is on any land or premises a particular thing that may be evidence of the commission of an offence against this Part, the enforcement officer may—
  - (a) enter the land or premises; and
  - (b) search for the thing.
- (2) An enforcement officer must not enter land or premises under this section except—
  - (a) with the written consent of the occupier of the land or premises; or
  - (b) under the authority of a search warrant.

### **101 Occupier to be given copy of consent**

- (1) An occupier who consents in writing to entry of his or her land or premises under section 100 must be given a copy of the signed consent immediately.
- (2) If, in any proceeding, a written consent is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry and search.

### **102 Search warrant**

- (1) An enforcement officer may apply to a magistrate for the issue of a search warrant in relation to particular land or premises if the enforcement officer believes on reasonable grounds that there is, or may be within the next 72 hours, on the land or premises a particular thing that may be evidence of the commission of an offence against this Part.

- (2) A magistrate may issue a search warrant under this section if the magistrate is satisfied by evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, on land or premises a particular thing that may be evidence of the commission of an offence against this Part.
- (3) The search warrant may authorise an enforcement officer named in the warrant and any assistants the enforcement officer considers necessary—
  - (a) to enter the land or premises, or part of the land or premises, named or described in the warrant; and
  - (b) to search for the thing named or described in the warrant.
- (4) In addition to any other requirement, a search warrant issued under this section must state—
  - (a) the offence suspected; and
  - (b) the land or premises to be searched; and
  - (c) a description of the thing for which the search is to be made; and
  - (d) any conditions to which the warrant is subject; and
  - (e) whether entry is authorised to be made at any time or during stated hours; and
  - (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.
- (5) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the form prescribed under that Act.

- (6) The rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

### **103 Announcement before entry**

- (1) Before executing a search warrant, the enforcement officer named in the warrant or a person assisting the enforcement officer named in the warrant must—
- (a) announce that he or she is authorised by the warrant to enter the land or premises; and
  - (b) give any person at the land or premises an opportunity to allow entry to the land or premises.
- (2) The enforcement officer or a person assisting the enforcement officer need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the land or premises is required to ensure—
- (a) the safety of any person; or
  - (b) that the effective execution of the warrant is not frustrated.

### **104 Copy of warrant to be given to occupier**

If the occupier or another person who apparently represents the occupier is present at the land or premises when a search warrant is being executed, the enforcement officer must—

- (a) identify himself or herself to that person by producing his or her identity card for inspection by that person; and
- (b) give to that person a copy of the execution copy of the warrant.

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| <b>105 Person authorised by Energy Safe Victoria can bring proceedings</b>   | S. 105<br>(Heading)<br>inserted by<br>No. 39/2005<br>s. 55(2). |
| (1) A person authorised by Energy Safe Victoria either generally or in a particular case to bring proceedings for an offence against this Part, may bring those proceedings.   | S. 105(1)<br>amended by<br>No. 39/2005<br>s. 55(3).            |
| (2) If proceedings referred to in subsection (1) are brought by a person authorised to do so, the proceedings may be conducted by any other person authorised by Energy Safe Victoria to bring proceedings of that kind.       | S. 105(2)<br>amended by<br>No. 39/2005<br>s. 55(3).            |
| (3) All courts must take judicial notice of the fact that a person is authorised by Energy Safe Victoria to bring proceedings referred to in subsection (1) or conduct proceedings under subsection (2), as the case requires. | S. 105(3)<br>amended by<br>No. 39/2005<br>s. 55(3).            |
| (4) In this section <i>Energy Safe Victoria</i> means Energy Safe Victoria established under the <b>Energy Safe Victoria Act 2005</b> .  | S. 105(4)<br>substituted by<br>No. 39/2005<br>s. 55(4).        |

### **Division 3—Infringement notices**

#### **106 Definition**

In this Division—

*prescribed offence* means an offence against section 97(7) constituted by the use of electricity by a person in contravention of a direction under section 96—

- (a) of which the person is aware or is deemed under section 97 to be aware;  
and

(b) which applies to the person—  
but does not include an offence by a body  
corporate.

### 107 Power to serve a notice

- (1) An enforcement officer may serve an  
infringement notice on any person that he or she  
has reason to believe has committed a prescribed  
offence.
- (2) An offence referred to in subsection (1) for which  
an infringement notice may be served is an  
infringement offence within the meaning of the  
**Infringements Act 2006.**

S. 107(2)  
substituted by  
No. 32/2006  
s. 94(Sch.  
item 13(1)).

S. 108  
repealed by  
No. 32/2006  
s. 94(Sch.  
item 13(2)).

S. 109  
amended by  
No. 10/2004  
s. 15(Sch. 1  
item 8(a)(b)).

### 109 Infringement penalties

The infringement penalty for an offence against a  
prescribed offence is 5 penalty units in the case of  
a natural person and 10 penalty units in the case of  
a body corporate.

Ss 110–115  
repealed by  
No. 32/2006  
s. 94(Sch.  
item 13(2)).

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## Part 7—General

### 116 Delegation by Minister

The Minister may, by instrument, delegate to any person any function or power of the Minister under this Act, other than this power of delegation.

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S. 117  
amended by  
No. 11/2002  
s. 3(Sch. 1  
item 18),  
repealed by  
No. 23/2009  
s. 15.

### 118 Supreme Court—limitation of jurisdiction

It is the intention of sections 84 and 99 to alter or vary section 85 of the **Constitution Act 1975**.

### 119 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations are subject to disallowance by a House of the Parliament.

Pt 8 (Heading  
and s. 120)  
inserted by  
No. 11/2013  
s. 9.

## Part 8—Savings and transitionals

S. 120  
inserted by  
No. 11/2013  
s. 9.

### 120 Transitional provision—Energy Legislation Amendment (Flexible Pricing and Other Matters) Act 2013

- (1) Unless the context otherwise requires, on and after the commencement of section 5 of the **Energy Legislation Amendment (Flexible Pricing and Other Matters) Act 2013**, every reference in a current AMI Order to a relevant licensee is taken to be a reference to a relevant entity.
- (2) In this section, *current AMI Order* means an Order under section 46D that is in force immediately before the commencement of section 5 of the **Energy Legislation Amendment (Flexible Pricing and Other Matters) Act 2013**.

S. 121  
inserted by  
No. 1/2017  
s. 6.

### 121 Savings provision—Energy Legislation Amendment (Feed-in Tariffs and Improving Safety and Markets) Act 2017

- (1) Despite the amendments made to this Act by Division 1 of Part 2 of the amending Act, the rate applying for the 2017 year under section 40FBA (as in force immediately before the commencement of section 4 of the amending Act) for the purposes of section 40FB(2)(a) (as in force immediately before that commencement) is taken to continue to apply until the day the first rate or rates determined under section 40FBB apply under section 40FBA for the purposes of section 40FB(2)(a).

(2) In this section—

*amending Act* means the **Energy Legislation Amendment (Feed-in Tariffs and Improving Safety and Markets) Act 2017**.

## Schedule

### Easements set apart for electricity corporations

Easements set apart or appropriated for the use of an electricity corporation under section 88.

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Column 1	Column 2
Power Line	Full and free right and liberty to and for an electricity corporation and its transferees and its and their contractors, servants agents and workmen at all times hereafter to enter in and upon the land to which the easement applies and to take onto or remove from such land any plant machines vehicles equipment or materials and to clear and to keep free such land of any buildings whatsoever and of anything which is or may be an obstruction to the rights hereby described including trees more than 2.7 metres in height or any structure more than 2.7 metres in height for every overhead electric cable or wire and including all trees and structures for every cable or wire laid underground and to construct lay or place one or more poles cables wires, marker posts, service pillars, stays or guy wires and to lay underground and fix and cover in such cables wires pipes ducts outlets galvanised iron pipe conduits poly vinyl chloride conduits and other apparatus appliances and protective coverings as may be required or desired for the transmission of electricity (all of which are hereinafter called "the said appliances") but so always that every overhead electric cable or wire shall be erected at least 4.6 metres above the then surface of such land and every cable or wire laid underground shall be laid at least 0.45 metres below the said then surface except when entering or leaving the ground of such land and also to carry out thereon such digging, cutting and excavating as may be reasonably necessary for the said appliances and keeping the said excavations free of the injurious accumulation of water but so that every excavation will be covered in as soon as possible and also to use such land and the said appliances for all purposes of and incidental to transmitting electricity safely and economically across such land at any time hereinafter and also to inspect maintain in good and efficient working order repair renew and remove

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Column 1	Column 2
	the said appliances and also from time to time to go pass and repass for all purposes aforesaid either with or without plant machines vehicles equipment or material through over and along such land.

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

*Minister's second reading speech—*

*Legislative Assembly: 7 September 2000*

*Legislative Council: 25 October 2000*

The long title for the Bill for this Act was "to regulate the electricity supply industry and for other purposes."

#### **Constitution Act 1975:**

*Section 85(5) statement:*

*Legislative Assembly: 7 September 2000*

*Legislative Council: 25 October 2000*

*Absolute majorities:*

*Legislative Assembly: 24 October 2000*

*Legislative Council: 14 November 2000*

The **Electricity Industry Act 2000** was assented to on 21 November 2000 and came into operation as follows:

Sections 1 and 2 on 22 November 2000: section 2(1); sections 3–18, 19(1)–(4)(6)–(8), 20–82, 84–119, Schedule on 1 January 2001: section 2(4); section 83 on 1 January 2001: Government Gazette 21 December 2000 page 2980; section 19(5) never proclaimed, repealed by section 4 of **Energy Legislation Amendment Act 2007**, No. 35/2007.

### **INTERPRETATION OF LEGISLATION ACT 1984 (ILA)**

#### **Style changes**

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

#### **References to ILA s. 39B**

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

### **Interpretation**

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

## 2 Table of Amendments

This publication incorporates amendments made to the **Electricity Industry Act 2000** by Acts and subordinate instruments.

Where a provision has expired, the provision has been omitted and an explanatory sidenote included.

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### **Electricity Industry Acts (Further Amendment) Act 2001, No. 13/2001**

*Assent Date:* 22.5.01  
*Commencement Date:* Ss 3, 4, 6–9 on 23.5.01: s. 2(1); s. 10 on 28.6.01: Government Gazette 28.6.01 p. 1427; s. 5 on 6.9.01: Government Gazette 6.9.01 p. 2261  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

### **Gas Industry Legislation (Miscellaneous Amendments) Act 2001, No. 32/2001**

*Assent Date:* 19.6.01  
*Commencement Date:* S. 28 on 1.9.01: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

### **Corporations (Consequential Amendments) Act 2001, No. 44/2001**

*Assent Date:* 27.6.01  
*Commencement Date:* S. 3(Sch. item 34) on 15.7.01: s. 2  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

### **Essential Services Commission Act 2001, No. 62/2001** (as amended by No. 11/2002)

*Assent Date:* 23.10.01  
*Commencement Date:* Ss 70–73 on 1.1.02: s. 2  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

### **Energy Legislation (Miscellaneous Amendments) Act 2001, No. 85/2001**

*Assent Date:* 11.12.01  
*Commencement Date:* Ss 3, 4, 6, 8 on 12.12.01: s. 2(1); ss 5, 7, 9 on 1.1.02: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

### **Electricity Industry (Amendment) Act 2002, No. 10/2002**

*Assent Date:* 23.4.02  
*Commencement Date:* 31.7.02: Special Gazette (No. 131) 30.7.02 p. 1  
*Current State:* All of Act in operation

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**Statute Law (Further Revision) Act 2002, No. 11/2002**

*Assent Date:* 23.4.02  
*Commencement Date:* S. 3(Sch. 1 item 18) on 21.11.00: s. 2(2)(c)  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Energy Legislation (Further Miscellaneous Amendments) Act 2002, No. 24/2002**

*Assent Date:* 12.6.02  
*Commencement Date:* Ss 20, 21 on 13.6.02: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Fair Trading (Amendment) Act 2003, No. 30/2003**

*Assent Date:* 27.5.03  
*Commencement Date:* S. 85 on 28.5.03: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Energy Legislation (Consumer Protection and Other Amendments) Act 2003, No. 40/2003**

*Assent Date:* 11.6.03  
*Commencement Date:* Ss 12, 14, 16–22 on 12.6.03: s. 2(1); ss 13, 15 on 1.7.04: s. 2(4)  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Fair Trading (Further Amendment) Act 2003, No. 106/2003**

*Assent Date:* 9.12.03  
*Commencement Date:* S. 22 on 30.8.04: Government Gazette 13.5.04 p. 1218  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Monetary Units Act 2004, No. 10/2004**

*Assent Date:* 11.5.04  
*Commencement Date:* S. 15(Sch. 1 item 8) on 1.7.04: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Road Management Act 2004, No. 12/2004**

*Assent Date:* 11.5.04  
*Commencement Date:* S. 170 on 1.1.05: s. 2(4)  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Energy Legislation (Regulatory Reform) Act 2004, No. 25/2004** (as amended by Nos 75/2004, 86/2004 (as amended by No. 39/2005))

*Assent Date:* 25.5.04  
*Commencement Date:* Ss 6–9 on 26.5.04: s. 2(1); ss 3–5 on 30.6.05: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

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**Essential Services Commission (Amendment) Act 2004, No. 75/2004**

*Assent Date:* 9.11.04  
*Commencement Date:* Ss 6–31 on 10.11.04: s. 2  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**State Concessions Act 2004, No. 82/2004**

*Assent Date:* 16.11.04  
*Commencement Date:* S. 13(Sch. item 3) on 1.3.05: s. 2(2)  
*Current State:* This information relates only to provision/s amending the **Electricity Industry Act 2000**

**Electricity Industry (Wind Energy Development) Act 2004, No. 86/2004**

*Assent Date:* 23.11.04  
*Commencement Date:* S. 3 on 24.11.04: s. 2(1); s. 4 on 1.7.05: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Energy Legislation (Amendment) Act 2004, No. 91/2004**

*Assent Date:* 7.12.04  
*Commencement Date:* Ss 3–8, 10–13 on 8.12.04: s. 2(1); s. 9 on 1.3.05: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**National Electricity (Victoria) Act 2005, No. 8/2005**

*Assent Date:* 27.4.05  
*Commencement Date:* S. 14 on 1.7.05: Special Gazette (No. 120) 28.6.05 p. 2  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Energy Legislation (Miscellaneous Amendments) Act 2005, No. 33/2005**

*Assent Date:* 21.6.05  
*Commencement Date:* S. 4 on 22.6.05: s. 2  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Energy Safe Victoria Act 2005, No. 39/2005**

*Assent Date:* 27.7.05  
*Commencement Date:* S. 55 on 10.8.05: Special Gazette (No. 147) 9.8.05 p. 1  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Sustainability Victoria Act 2005, No. 65/2005**

*Assent Date:* 20.9.05  
*Commencement Date:* S. 26 on 1.10.05: Government Gazette 29.9.05 p. 2171  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

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**Rail Safety Act 2006, No. 9/2006**

*Assent Date:* 4.4.06  
*Commencement Date:* S. 157 on 1.8.06: Special Gazette (No. 181) 25.7.06  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Energy Legislation (Miscellaneous Amendments) Act 2006, No. 31/2006**

*Assent Date:* 13.6.06  
*Commencement Date:* Ss 3, 4 on 14.6.06: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006**

*Assent Date:* 13.6.06  
*Commencement Date:* S. 94(Sch. item 13) on 1.7.06: Government Gazette  
29.6.06 p. 1315  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Energy Legislation (Hardship, Metering and Other Matters) Act 2006,  
No. 60/2006**

*Assent Date:* 29.8.06  
*Commencement Date:* Ss 3, 4 on 30.8.06: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Mineral Resources Development (Sustainable Development) Act 2006,  
No. 63/2006**

*Assent Date:* 29.8.06  
*Commencement Date:* S. 61(Sch. item 10) on 30.8.06: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Energy Legislation Amendment Act 2007, No. 35/2007**

*Assent Date:* 14.8.07  
*Commencement Date:* Ss 4, 6 on 15.8.07: s. 2(1); ss 3, 5 on 1.1.08: s. 2(3)  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Energy Legislation Further Amendment Act 2007, No. 55/2007**

*Assent Date:* 7.11.07  
*Commencement Date:* Ss 3–13 on 8.11.07: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Energy and Resources Legislation Amendment Act 2008, No. 25/2008**

*Assent Date:* 3.6.08  
*Commencement Date:* S. 19 on 4.6.08: s. 2(1)  
*Current State:* This information relates only to the provision/s  
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**Energy Legislation Amendment (Retail Competition and Other Matters) Act 2008, No. 59/2008** (as amended by No. 82/2008)

*Assent Date:* 22.10.08  
*Commencement Date:* Ss 3–18 on 30.12.08: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Energy Legislation Amendment (Australian Energy Market Operator) Act 2009, No. 23/2009**

*Assent Date:* 17.6.09  
*Commencement Date:* Ss 5–15 on 1.7.09: Special Gazette (No. 222) 30.6.09 p. 1  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Electricity Industry Amendment (Premium Solar Feed-in Tariff) Act 2009, No. 41/2009**

*Assent Date:* 5.8.09  
*Commencement Date:* Ss 4–14 on 1.11.09: Government Gazette 29.10.09 p. 2729  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Energy and Resources Legislation Amendment Act 2009, No. 57/2009**

*Assent Date:* 21.10.09  
*Commencement Date:* S. 3 on 13.12.09: Government Gazette 10.12.09 p. 3215  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 97(Sch. item 49) on 1.1.10: Government Gazette 10.12.09 p. 3215  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Electricity Industry Amendment (Critical Infrastructure) Act 2009, No. 72/2009**

*Assent Date:* 1.12.09  
*Commencement Date:* Ss 4, 5 on 2.12.09: s. 2  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Transport Integration Act 2010, No. 6/2010** (as amended by No. 45/2010)

*Assent Date:* 2.3.10  
*Commencement Date:* S. 203(1)(Sch. 6 item 15) on 1.7.10: Special Gazette (No. 256) 30.6.10 p. 1  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

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**Energy and Resources Legislation Amendment Act 2010, No. 55/2010**

*Assent Date:* 14.9.10  
*Commencement Date:* Ss 3–11 on 14.10.10: Government Gazette 14.10.10 p. 2404  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Fair Trading Amendment (Australian Consumer Law) Act 2010, No. 72/2010**

*Assent Date:* 19.10.10  
*Commencement Date:* S. 48(Sch. item 8) on 1.1.11: Special Gazette (No. 502) 20.12.10 p. 1  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Personal Property Securities (Statute Law Revision and Implementation) Act 2010, No. 74/2010**

*Assent Date:* 19.10.10  
*Commencement Date:* S. 23 on 30.1.12: Special Gazette (No. 423) 21.12.11 p. 3  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Commercial Arbitration Act 2011, No. 50/2011**

*Assent Date:* 18.10.11  
*Commencement Date:* S. 46(Sch. item 5) on 17.11.11: Special Gazette (No. 369) 15.11.11 p. 1  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Energy Legislation Amendment (Bushfire Mitigation and Other Matters) Act 2011, No. 59/2011**

*Assent Date:* 8.11.11  
*Commencement Date:* S. 34 on 1.1.12: Special Gazette (No. 407) 13.12.11 p. 1  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Electricity Industry Amendment (Transitional Feed-in Tariff Scheme) Act 2011, No. 64/2011**

*Assent Date:* 22.11.11  
*Commencement Date:* Ss 3–22 on 1.1.12: Special Gazette (No. 407) 13.12.11 p. 1  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

**Australian Consumer Law and Fair Trading Act 2012, No. 21/2012**

*Assent Date:* 8.5.12  
*Commencement Date:* S. 239(Sch. 6 item 15) on 1.7.12: Special Gazette (No. 214) 28.6.12 p. 1  
*Current State:* This information relates only to the provision/s amending the **Electricity Industry Act 2000**

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**Energy Legislation Amendment Act 2012, No. 51/2012**

*Assent Date:* 18.9.12  
*Commencement Date:* Ss 3–5 on 27.9.12: Special Gazette (No. 324) 26.9.12  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Energy Legislation Amendment (Flexible Pricing and Other Matters) Act 2013,  
No. 11/2013**

*Assent Date:* 13.3.13  
*Commencement Date:* Ss 3–9 on 18.4.13: Special Gazette (No. 141) 16.4.13  
p. 2  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Rail Safety National Law Application Act 2013, No. 22/2013**

*Assent Date:* 23.4.13  
*Commencement Date:* Ss 54, 55 on 19.5.14: Special Gazette (No. 148)  
13.5.14 p. 2  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Energy Legislation Amendment (Feed-in Tariffs and Other Matters) Act 2013,  
No. 35/2013**

*Assent Date:* 18.6.13  
*Commencement Date:* Ss 3–11 on 10.7.13: Special Gazette (No. 257) 9.7.13  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Statute Law Revision Act 2013, No. 70/2013**

*Assent Date:* 19.11.13  
*Commencement Date:* S. 4(Sch. 2 item 15) on 1.12.13: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Energy Legislation Amendment (General) Act 2014, No. 3/2014**

*Assent Date:* 11.2.14  
*Commencement Date:* Ss 3–14 on 1.4.14: Special Gazette (No. 94) 25.3.14  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Energy Legislation Amendment (Customer Metering Protections and Other  
Matters) Act 2014, No. 46/2014**

*Assent Date:* 1.7.14  
*Commencement Date:* Ss 3–7 on 30.7.14: Special Gazette (No. 254) 29.7.14  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

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**Energy Legislation Amendment (Publication of Retail Offers) Act 2015,  
No. 28/2015**

*Assent Date:* 11.8.15  
*Commencement Date:* Ss 3, 4 on 1.10.15: Special Gazette (No. 285) 29.9.15  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Energy Legislation Amendment (Consumer Protection) Act 2015, No. 49/2015**

*Assent Date:* 13.10.15  
*Commencement Date:* Ss 3–12 on 1.1.16: Special Gazette (No. 403) 15.12.15  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

**Energy Legislation Amendment (Feed-in Tariffs and Improving Safety and  
Markets) Act 2017, No. 1/2017**

*Assent Date:* 14.2.17  
*Commencement Date:* Ss 3–6 on 15.2.17: s. 2(1); ss 7–10 on 1.1.18: s. 2(3)  
*Current State:* This information relates only to the provision/s  
amending the **Electricity Industry Act 2000**

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### **3 Amendments Not in Operation**

There are no amendments which were Not in Operation at the date of this publication.

**4 Explanatory details**

No entries at date of publication.