



Australian Capital Territory

Independent Competition and Regulatory Commission Amendment Act 2024

A2024-25

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J2023-1274

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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Australian Capital Territory

Independent Competition and Regulatory Commission Amendment Act 2024

A2024-25

An Act to amend the *Independent Competition and Regulatory Commission Act 1997*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2023-1274

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 Name of Act

This Act is the *Independent Competition and Regulatory Commission Amendment Act 2024*.

2 Commencement

This Act commences 6 months after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

3 Legislation amended

This Act amends the *Independent Competition and Regulatory Commission Act 1997*.

Note This Act also amends the *Utilities Act 2000* (see sch 1).

4 New part 9A

insert

Part 9A Enforcement of civil penalty provisions

Division 9A.1 Preliminary

54A Definitions—pt 9A

In this part:

conduct means an act or a failure to act.

corresponding offence, in relation to a contravention of a civil penalty provision, means an offence constituted by conduct that is substantially the same as the conduct constituting the contravention.

court means the Supreme Court.

54B Part does not limit other powers of court

Nothing in this part is to be interpreted as limiting any other power of the court.

Division 9A.2 Enforceable undertakings

54C Enforceable undertakings

- (1) The commission may accept a written undertaking given by a person for this division in relation to the person's compliance with a civil penalty provision.
- (2) The person may withdraw or amend the undertaking at any time, but only with the commission's consent.

54D Application for enforcement of undertakings

- (1) If the commission considers that a person has contravened an undertaking given by the person under section 54C, it may apply to the court for an order under subsection (2).
- (2) If the court is satisfied the person has contravened the undertaking, the court may make 1 or more of the following orders:
 - (a) an order that the person comply with the undertaking;
 - (b) an order that the person pay the Territory an amount up to the amount of any financial benefit the person has obtained directly or indirectly and that is reasonably attributable to the contravention;
 - (c) an order the court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the contravention;
 - (d) any other order the court considers appropriate.

- (3) An amount ordered to be paid under subsection (2) (b) is a debt payable to the Territory.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

Division 9A.3 Civil penalty notices

54E Service of civil penalty notice

- (1) If the commission believes on reasonable grounds that a person has contravened a civil penalty provision, it may serve the person with a notice to pay a penalty for the contravention (a *civil penalty notice*).
- (2) The commission must serve the notice within 12 months after the day it forms the belief that the person has contravened the civil penalty provision.

54F Contents of civil penalty notice

A civil penalty notice must state the following:

- (a) the date it is served;
- (b) the name and address of the person served with the notice;
- (c) that the person is alleged to have engaged in conduct that constitutes a contravention of a stated civil penalty provision;
- (d) a brief description of the alleged contravention, including when and where it is alleged to have occurred;
- (e) the amount payable under the notice for the alleged contravention;
- (f) how the person may pay the amount;
- (g) the time for payment of the amount (being within 28 days or a stated longer period);

- (h) that if the person pays the amount within the time for payment, unless the notice is withdrawn under section 54J—
 - (i) the commission will not start an enforcement order proceeding against the person in relation to the alleged contravention; and
 - (ii) the person will not be prosecuted for a corresponding offence;
- (i) that if the person fails to pay the amount within the time for payment, or the notice is withdrawn under section 54J—
 - (i) the commission may start an enforcement order proceeding against the person in relation to the alleged contravention; or
 - (ii) the person may be prosecuted for a corresponding offence;
- (j) anything else prescribed by regulation.

54G Amount payable under civil penalty notice

- (1) The amount payable under a civil penalty notice for an alleged contravention of a tier 1 civil penalty provision or tier 2 civil penalty provision is—
 - (a) for an individual—\$15 000 or a lesser amount prescribed by regulation; and
 - (b) for a corporation—\$75 000 or a lesser amount prescribed by regulation.
- (2) The amount payable under a civil penalty notice for an alleged contravention of a tier 3 civil penalty provision is—
 - (a) for an individual—\$7 510 or a lesser amount prescribed by regulation; and
 - (b) for a corporation—\$37 500 or a lesser amount prescribed by regulation.

- (3) However, the commission may decide that the amount payable under a civil penalty notice for an alleged contravention of a tier 3 civil penalty provision for a corporation is the amount mentioned in subsection (2) (a) if—
- (a) the corporation is not a listed corporation, or is subject to the payment only because it is a related corporation; and
 - (b) the commission considers the lesser amount is appropriate after taking into account the following:
 - (i) the nature of the alleged contravention;
 - (ii) the degree of financial impact on the corporation if the higher amount were to apply;
 - (iii) the extent to which the higher amount appears excessive in the circumstances;
 - (iv) any other matter the commission considers relevant.
- (4) In this section:

listed corporation—see the [Corporations Act](#), section 9.

tier 1 civil penalty provision means a civil penalty provision to which a tier 1 civil penalty applies under schedule 5.

tier 2 civil penalty provision means a civil penalty provision to which a tier 2 civil penalty applies under schedule 5.

tier 3 civil penalty provision means a civil penalty provision to which a tier 3 civil penalty applies under schedule 5.

54H Time for payment of amount

- (1) A person served with a civil penalty notice must pay the amount payable under the notice within—
- (a) 28 days after the day the notice is served; or
 - (b) a longer period stated in the notice.

- (2) The commission may accept payment of the amount after the time for payment stated in the notice if—
 - (a) the commission has not started an enforcement order proceeding against the person in relation to the alleged contravention; and
 - (b) the person has not been prosecuted for a corresponding offence; and
 - (c) the notice has not been withdrawn under section 54J.

54I Effect of payment of amount

- (1) If a person served with a civil penalty notice pays the amount payable under the notice in accordance with the notice—
 - (a) any liability of the person for the alleged contravention is discharged; and
 - (b) the person must not be prosecuted for a corresponding offence; and
 - (c) the person is not taken to have been convicted of a corresponding offence; and
 - (d) the commission must not start an enforcement order proceeding against the person in relation to the alleged contravention; and
 - (e) the person is not taken to have admitted guilt or liability for the alleged contravention.
- (2) Subsection (1) does not apply if the notice is withdrawn under section 54J.

54J Withdrawal of civil penalty notice

- (1) The commission may withdraw a civil penalty notice by serving a notice (a *withdrawal notice*) on the person served with the civil penalty notice—
 - (a) if the time for payment stated in the civil penalty notice has not ended; and
 - (b) whether or not the amount payable under the civil penalty notice has been paid.
- (2) If the commission serves a withdrawal notice, it must refund any amount paid under the civil penalty notice.

54K Conduct contravening multiple civil penalty provisions

- (1) If a person is alleged to have engaged in conduct constituting a contravention of 2 or more civil penalty provisions, the commission may serve the person with a civil penalty notice in relation to the contravention of 1 or more of those provisions.
- (2) However, the person is not liable to pay more than 1 amount for contraventions in relation to the same conduct.

54L Effect of civil penalty notice on enforcement order proceeding

The commission must not start an enforcement order proceeding against a person in relation to an alleged contravention of a civil penalty provision if—

- (a) it has served a person with a civil penalty notice in relation to the alleged contravention; and
- (b) the time for payment stated in the notice has not ended; and
- (c) the notice has not been withdrawn under section 54J.

Division 9A.4 Enforcement orders

54M Application for enforcement order

- (1) The commission may apply to the court for an order under subsection (3) (an *enforcement order*) in relation to an alleged contravention of a civil penalty provision by a person.
- (2) The commission must make the application within 6 years of the alleged contravention.
- (3) If the court is satisfied the person has contravened the civil penalty provision, it may make 1 or more of the following orders:
 - (a) an order that the person pay the Territory a civil penalty for the contravention decided in accordance with section 54N;
 - (b) an order that the person stop engaging in the conduct constituting the contravention within a stated period;
 - (c) an order that the person take stated action to remedy the contravention or prevent the contravention from recurring;
 - (d) an order that the person implement a stated program for compliance with civil penalty provisions;
 - (e) an order that the person perform a stated service relating to the contravention for the benefit of the community or a part of the community;
 - (f) an order that the person engage a person or kind of person to perform a service mentioned in paragraph (e);

- (g) an order to ensure that the person does not engage in conduct constituting the contravention, or similar or related conduct, for up to 3 years, including—
 - (i) an order that the person set up a compliance or education and training program for employees or other people involved in the person’s business, that is designed to ensure their awareness of the responsibilities and obligations in relation to the conduct; or
 - (ii) an order that the person revise the internal operations of their business that led to the contravention;
- (h) an order that the person—
 - (i) disclose stated information to which the person has access in a stated way to stated people; and
 - (ii) publish an advertisement in a stated way and in terms stated in, or determined in accordance with, the order;
- (i) an order prescribed by regulation.
- (4) A civil penalty payable under subsection (3) (a) is a debt payable to the Territory.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).
- (5) An order under subsection (3) (f) is not enforceable against the person engaged to perform the service.

54N Deciding civil penalty for enforcement order

- (1) The maximum civil penalty payable for a contravention of a civil penalty provision is the penalty mentioned in schedule 5, section 5.3, column 3 for the provision.

- (2) Without limiting the matters the court may consider, in deciding the amount of the civil penalty for an enforcement order, the court must consider the following:
- (a) the nature and extent of the contravention;
 - (b) the circumstances in which the contravention took place;
 - (c) any loss or damage suffered because of the contravention;
 - (d) any benefit the person and, for a corporation, a related corporation, has obtained directly or indirectly that is reasonably attributable to the contravention;
 - (e) whether the person has previously engaged in conduct similar to the conduct constituting the contravention.

54O Enforcement order proceeding is civil proceeding

An enforcement order proceeding is a civil proceeding for all purposes.

54P Proceedings may be heard together

The court may direct that 2 or more enforcement order proceedings be heard together.

54Q Civil proceeding after criminal proceeding

The court must not make an enforcement order against a person for a contravention of a civil penalty provision if the person has been convicted of a corresponding offence.

54R Criminal proceeding during civil proceeding

- (1) An enforcement order proceeding is stayed if—
- (a) a criminal proceeding is started or has already been started against a person alleged to have contravened a civil penalty provision; and

- (b) the criminal proceeding is for a corresponding offence.
- (2) If the person—
 - (a) is not convicted of the offence—the enforcement order proceeding may be resumed; or
 - (b) is convicted of the offence—the enforcement order proceeding is dismissed and costs must not be awarded in relation to the proceeding.

54S Criminal proceeding after civil proceeding

A criminal proceeding may be started against a person for a corresponding offence whether or not an enforcement order has been made against the person for a related contravention of a civil penalty provision.

54T Evidence given in civil proceeding not admissible in criminal proceeding

- (1) This section applies to information given and documents produced by an individual in an enforcement order proceeding (whether or not an enforcement order was made).
- (2) The information and documents are not admissible in evidence in a criminal proceeding against the individual for a corresponding offence.
- (3) However, subsection (2) does not apply to a criminal proceeding in relation to the falsity of the evidence given by the individual in the enforcement order proceeding.

54U Conduct contravening multiple civil penalty provisions

- (1) If a person contravenes 2 or more civil penalty provisions, an enforcement order proceeding against the person may be started in relation to the contravention of 1 or more of those provisions.

- (2) However, the person is not liable to more than 1 civil penalty in relation to the same conduct.

54V Multiple contraventions

- (1) The court may order that a person pay a single civil penalty for multiple contraventions of a civil penalty provision if the contraventions—
 - (a) are based on the same facts; or
 - (b) form, or are part of, a series of contraventions of the same or a similar kind.
- (2) However, the single civil penalty must not exceed the sum of the maximum penalties that the court may have ordered if separate civil penalties were ordered for each of the contraventions.

Division 9A.5 Injunctions

54W Application for injunction

- (1) If a person has engaged, is engaging or is proposing to engage, in conduct constituting a contravention of a civil penalty provision, the court may, on application by the commission, grant an injunction—
 - (a) restraining the person from engaging in the conduct; and
 - (b) if, in the court's opinion, it is desirable to do so—requiring the person to do a thing.
- (2) The court's power to grant an injunction restraining a person from engaging in conduct may be exercised—
 - (a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
 - (b) whether or not the person has previously engaged in conduct of that kind; and

- (c) whether or not there is an imminent danger of substantial damage to any other person if the person engages in conduct of that kind.

54X Discharging or varying injunctions

The court may discharge or vary an injunction granted under section 54W.

Division 9A.6 Other provisions about liability

54Y Meaning of *evidential burden*—div 9A.6

In this division:

evidential burden, in relation to a matter, means the burden of adducing or pointing to evidence that suggests a reasonable possibility that the matter exists or does not exist.

54Z Ancillary contraventions

- (1) A person must not—
 - (a) attempt to contravene a civil penalty provision; or
 - (b) aid, abet, counsel or procure a contravention of a civil penalty provision; or
 - (c) be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of a civil penalty provision.
- (2) A person who contravenes subsection (1) in relation to a civil penalty provision is taken to have contravened the civil penalty provision.

54ZA State of mind

- (1) It is not necessary to prove a person's state of mind in a proceeding against the person under this part.

- (2) Subsection (1) does not apply—
- (a) to the extent that the proceeding relates to a contravention of section 54Z (1) (Ancillary contraventions); and
 - (b) to the extent that the civil penalty provision, or a provision that relates to the civil penalty provision, expressly provides otherwise.
- (3) In this section:
- state of mind*, of a person, includes the person's intention, knowledge, recklessness or negligence.

54ZB Mistake of fact

- (1) A person is not liable for a contravention of a civil penalty provision if—
- (a) when engaging in the conduct constituting the contravention, the person considered whether or not facts existed, and was under a mistaken but reasonable belief about the facts; and
 - (b) had the facts existed, the conduct would not have constituted a contravention.
- (2) A person may be taken to have considered whether or not facts existed when engaging in conduct if the person—
- (a) had considered, on a previous occasion, whether those facts existed in the circumstances surrounding that occasion; and
 - (b) honestly and reasonably believed that the circumstances surrounding the present occasion were substantially the same as those surrounding the previous occasion.
- (3) The person has an evidential burden in relation to the matters mentioned in subsection (1) and (2).

54ZC Burden of proof for exceptions etc

A person wishing to rely on any exception, exemption, excuse, qualification or justification provided by the law creating a civil penalty provision has an evidential burden in relation to the matter.

54ZD Extended liability of corporations

Conduct is taken to be engaged in by a corporation if it is engaged in by an employee, agent or officer of the corporation acting within—

- (a) the actual or apparent scope of their employment; or
- (b) their actual or apparent authority.

54ZE Limited liability of individuals

An individual is not liable under this part for a contravention of a civil penalty provision if the contravention has a corresponding offence.

5 New section 54ZF

in part 10, insert

54ZF Exercise of enforcement functions under Utilities Act 2000

- (1) An ICRC inspector may exercise their functions under the *Utilities Act 2000*, chapter 10 (Enforcement) for the purpose of investigating, monitoring and enforcing compliance with a civil penalty provision.
- (2) For subsection (1)—
 - (a) a reference in that chapter to an offence against that Act is taken to be a reference to a contravention of a civil penalty provision; and
 - (b) a reference in that chapter to a prosecution for an offence is taken to be a reference to an enforcement order proceeding in relation to a contravention of a civil penalty provision.

(3) In this section:

ICRC inspector—see the *Utilities Act 2000*, dictionary.

6 New schedule 5

insert

Schedule 5 Civil penalty provisions

(see s 54N (1) and dict, def *civil penalty provision*)

5.1 Definitions—sch 5

In this schedule:

adjusted turnover—see the *Competition and Consumer Act 2010* (Cwlth), section 4.

Consumer Protection Code means the Consumer Protection Code determined by the *Utilities (Consumer Protection Code) Determination 2020*.

Electricity Feed-in Code means the Electricity Feed-in Code determined by the *Utilities (Electricity Feed-in Code) Determination 2020*.

tier 1 civil penalty—see section 5.2.

tier 2 civil penalty—see section 5.2.

tier 3 civil penalty—see section 5.2.

Transparency and Comparability Code means the ACT Retail Electricity (Transparency and Comparability) Code determined by the *Utilities (ACT Retail Electricity – Transparency and Comparability Code) Determination 2021*.

5.2 Meaning of *tier 1 civil penalty*, *tier 2 civil penalty* and *tier 3 civil penalty*—sch 5

(1) In this schedule:

tier 1 civil penalty means—

- (a) for an individual—\$553 000; and
- (b) for a corporation—the greater of the following:
 - (i) \$11 060 000;
 - (ii) if the court can determine the value of the benefit the corporation, and any related corporation, has obtained directly or indirectly and that is reasonably attributable to the contravention—3 times the value of the benefit;
 - (iii) if the court cannot determine the value of the benefit—10% of the corporation’s adjusted turnover during the 12 months ending at the end of the month the contravention occurred.

tier 2 civil penalty means—

- (a) for an individual—\$317 400 plus \$15 900 for each day (after the first day) the contravention continues; and
- (b) for a corporation—\$1 587 100 plus \$79 400 for each day (after the first day) the contravention continues.

tier 3 civil penalty means—

- (a) for an individual—\$37 500 plus \$3 750 for each day (after the first day) the contravention continues; and
- (b) for a corporation—\$188 000 plus \$18 000 for each day (after the first day) the contravention continues.

- (2) However, subsection (1), definition of *tier 1 civil penalty*, paragraph (b) (ii) and (iii) apply in relation to an enforcement order only if the commission requests that the provisions apply in the application for the order.

5.3 Civil penalty provisions

column 1 item	column 2 provision	column 3 maximum penalty
1	Consumer Protection Code , cl 4.1 (Reporting to the ICRC)	tier 1 civil penalty
2	Consumer Protection Code , cl 5 (2) and (3) (Conduct of utilities)	tier 2 civil penalty
3	Consumer Protection Code , cl 5 (5) (Conduct of utilities)	tier 3 civil penalty
4	Consumer Protection Code , cl 6.1 (Complaints and dispute resolution procedures)	tier 2 civil penalty
5	Consumer Protection Code , cl 6.2 (Practices and procedures to comply with Australian Standards)	tier 2 civil penalty
6	Consumer Protection Code , cl 6.3 (Addressing complaints)	tier 2 civil penalty
7	Consumer Protection Code , cl 6.4 (Utility to keep records)	tier 2 civil penalty
8	Consumer Protection Code , cl 7.1 (Utility to provide information)	tier 3 civil penalty
9	Consumer Protection Code , cl 7.2 (Utility may recover costs of providing information)	tier 2 civil penalty
10	Consumer Protection Code , cl 7.3 (Disclosure of customer or consumer information by a utility to a third party)	tier 2 civil penalty
11	Consumer Protection Code , cl 8.1 (Requirements for effective notice to customer or consumer)	tier 2 civil penalty

Section 6

column 1 item	column 2 provision	column 3 maximum penalty
12	Consumer Protection Code , cl 9.1 (Utility to publish summary)	tier 2 civil penalty
13	Consumer Protection Code , cl 10.1 (Registration of life support equipment)	tier 1 civil penalty
14	Consumer Protection Code , cl 10.2 (Disconnection and interruption to services)	tier 1 civil penalty
15	Consumer Protection Code , cl 11.1 (Compliance by utilities with guaranteed service levels)	tier 3 civil penalty
16	Consumer Protection Code , cl 11.2 (Utility to pay rebate for non-compliance)	tier 3 civil penalty
17	Consumer Protection Code , cl 11.3 (Method of payment of rebate)	tier 3 civil penalty
18	Consumer Protection Code , cl 11.5 (Information to be provided to customers)	tier 2 civil penalty
19	Consumer Protection Code , cl 12.1 (Information about charges)	tier 2 civil penalty
20	Consumer Protection Code , cl 12.2 (Variation of charges)	tier 2 civil penalty
21	Consumer Protection Code , cl 13.1 (Utility may issue bills)	tier 2 civil penalty
22	Consumer Protection Code , cl 13.3 (Maximum intervals between bills)	tier 2 civil penalty
23	Consumer Protection Code , cl 13.6 (Historical billing information)	tier 3 civil penalty
24	Consumer Protection Code , cl 13.7 (1) (Payment of bills)	tier 2 civil penalty
25	Consumer Protection Code , cl 13.7 (2) (Payment of bills)	tier 3 civil penalty
26	Consumer Protection Code , cl 13.8 (Review of bills)	tier 2 civil penalty

column 1 item	column 2 provision	column 3 maximum penalty
27	Consumer Protection Code , cl 13.9 (Overcharging)	tier 2 civil penalty
28	Consumer Protection Code , cl 13.10 (Undercharging)	tier 2 civil penalty
29	Consumer Protection Code , cl 13.12 (How payments to be applied)	tier 2 civil penalty
30	Consumer Protection Code , cl 13.13 (Territory Government-sponsored rebates)	tier 2 civil penalty
31	Consumer Protection Code , cl 13.14 (Payment difficulties)	tier 1 civil penalty
32	Consumer Protection Code , cl 14.2 (Hardship policy requirement)	tier 1 civil penalty
33	Consumer Protection Code , cl 15.1 (Interest charges)	tier 2 civil penalty
34	Consumer Protection Code , cl 16 (1) (New customer contract information)	tier 2 civil penalty
35	Consumer Protection Code , cl 17.1 (Obligations under the Utilities Act)	tier 2 civil penalty
36	Consumer Protection Code , cl 17.2 (Provisions to be contained in standard customer contracts)	tier 2 civil penalty
37	Consumer Protection Code , cl 19.1 (Utility to make contract available to customers)	tier 2 civil penalty
38	Consumer Protection Code , cl 19.3 (Changes to standard customer contracts)	tier 2 civil penalty
39	Consumer Protection Code , cl 20.1 (When a utility must not disconnect or restrict utility services)	tier 1 civil penalty
40	Consumer Protection Code , cl 20.2 (When a utility must disconnect premises from a utility network)	tier 1 civil penalty
41	Consumer Protection Code , cl 20.3 (When a utility may disconnect or restrict supply)	tier 1 civil penalty

Section 6

column 1 item	column 2 provision	column 3 maximum penalty
42	Consumer Protection Code , cl 20.4 (Restriction of utility services to residential premises for failure to pay a bill)	tier 1 civil penalty
43	Consumer Protection Code , cl 20.5 (Restrictions on water restrictions to residential premises)	tier 2 civil penalty
44	Consumer Protection Code , cl 20.6 (Content and format of notices)	tier 3 civil penalty
45	Consumer Protection Code , cl 21 (Disconnections and restrictions in emergencies and under restriction schemes)	tier 1 civil penalty
46	Consumer Protection Code , cl 22.1 (When a utility may interrupt supply of a utility service)	tier 1 civil penalty
47	Consumer Protection Code , cl 22.2 (Planned interruptions to the supply of utility services)	tier 1 civil penalty
48	Consumer Protection Code , cl 22.3 (Unplanned interruptions to the supply of a utility service)	tier 1 civil penalty
49	Consumer Protection Code , cl 23.1 (When a security deposit may be required)	tier 2 civil penalty
50	Consumer Protection Code , cl 23.2 (Maximum amount of security deposit)	tier 2 civil penalty
51	Consumer Protection Code , cl 23.3 (Interest on security deposits)	tier 2 civil penalty
52	Consumer Protection Code , cl 23.4 (Repayment of security deposits)	tier 2 civil penalty
53	Consumer Protection Code , cl 23.5 (Purposes for which security deposits must not be used)	tier 2 civil penalty
54	Electricity Feed-in Code , cl 4.1 (Distributor to detail arrangements to NERL retailer)	tier 3 civil penalty
55	Electricity Feed-in Code , cl 4.2 (Distributor to alert NERL retailer and occupier of start dates)	tier 3 civil penalty

column 1 item	column 2 provision	column 3 maximum penalty
56	Transparency and Comparability Code , cl 2.3 (Communication must compare prices to the reference price)	tier 3 civil penalty
57	Transparency and Comparability Code , cl 2.5 (Advertising conditional discounts)	tier 3 civil penalty
58	Transparency and Comparability Code , cl 2.6 (Records of compliance)	tier 3 civil penalty
59	Transparency and Comparability Code , cl 4.3 (Minimum standards for clear advice)	tier 3 civil penalty
60	Transparency and Comparability Code , cl 4.4 (Records of compliance)	tier 3 civil penalty
61	Utilities Act 2000 , s 21 (1) (Requirement for licence)	tier 1 civil penalty
62	Utilities Act 2000 , s 47 (1) (Contravention of licence condition)	tier 1 civil penalty
63	Utilities Act 2000 , s 75H (1) (Offence—contravention of code, s 75E or s 75GA)	tier 1 civil penalty
64	Utilities Act 2000 , s 75K (Offence—contravention of s 75F)	tier 3 civil penalty
65	Utilities Act 2000 , s 100 (1) and (3) (Passing on the cost of water)	tier 3 civil penalty

7 Dictionary, notes 1 and 2

substitute

Note The [Legislation Act](#) contains definitions relevant to this Act. For example:

- Act
- bankrupt or personally insolvent
- corporation
- director-general (see s 163)

- exercise
- fail
- function
- may (see s 146)
- must (see s 146)
- National Electricity (ACT) Law
- National Electricity (ACT) Regulation
- National Energy Retail Law (ACT)
- National Energy Retail Regulation (ACT)
- National Gas (ACT) Law
- National Gas (ACT) Regulation
- person (see s 160)
- subordinate law (see s 8)
- territory authority
- the Territory.

8 Dictionary, new definitions

insert

adjusted turnover, for schedule 5 (Civil penalty provisions)—see schedule 5, section 5.1.

civil penalty notice—see section 54E (1).

civil penalty provision means a provision mentioned in schedule 5, section 5.3, column 2.

conduct, for part 9A (Enforcement of civil penalty provisions)—see section 54A.

Consumer Protection Code, for schedule 5 (Civil penalty provisions)—see schedule 5, section 5.1.

corresponding offence, in relation to a contravention of a civil penalty provision, for part 9A (Enforcement of civil penalty provisions)—see section 54A.

court, for part 9A (Enforcement of civil penalty provisions)—see section 54A.

Electricity Feed-in Code, for schedule 5 (Civil penalty provisions)—see schedule 5, section 5.1.

enforcement order—see section 54M (1).

enforcement order proceeding means a proceeding under division 9A.4 (Enforcement orders).

evidential burden, in relation to a matter, for division 9A.6 (Other provisions about liability)—see section 54Y.

related corporation, of another corporation, means a related body corporate under the [Corporations Act](#).

tier 1 civil penalty, for schedule 5 (Civil penalty provisions)—see schedule 5, section 5.2.

tier 2 civil penalty, for schedule 5 (Civil penalty provisions)—see schedule 5, section 5.2.

tier 3 civil penalty, for schedule 5 (Civil penalty provisions)—see schedule 5, section 5.2.

Transparency and Comparability Code, for schedule 5 (Civil penalty provisions)—see schedule 5, section 5.1.

Schedule 1 Other amendments—Utilities Act 2000

(see s 3)

[1.1] Section 21 (1), penalty

substitute

Maximum penalty:

- (a) for an individual—3 000 penalty units; or
- (b) for a corporation—\$11 060 000.

[1.2] Section 47 (1), penalty

substitute

Maximum penalty:

- (a) for an individual—3 000 penalty units; or
- (b) for a corporation—\$11 060 000.

[1.3] Section 75H (1), penalty

substitute

Maximum penalty:

- (a) for an individual—3 000 penalty units; or
- (b) for a corporation—\$11 060 000.

[1.4] Section 75K (1), penalty

substitute

Maximum penalty:

- (a) for an individual—50 penalty units; or
- (b) for a corporation—\$188 000.

[1.5] Section 100 (1) and (3), penalty

substitute

Maximum penalty:

- (a) for an individual—50 penalty units; or
- (b) for a corporation—\$188 000.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 9 April 2024.

2 Notification

Notified under the [Legislation Act](#) on 19 June 2024.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Independent Competition and Regulatory Commission Amendment Bill 2024, which was passed by the Legislative Assembly on 5 June 2024.

Clerk of the Legislative Assembly

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