

1997
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Urban Services)

Electricity Supply Bill 1997

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1997
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Urban Services)

Electricity Supply Bill 1997

A BILL FOR

An Act to regulate the supply of electricity

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

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Electricity Supply Act 1997*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.
- 10 (2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.
- (3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which

this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Interpretation

3. In this Act, unless the contrary intention appears—

- 5 “ACTEW” means ACTEW Corporation Limited;
- “customer connection contract” means a standard form customer connection contract or a negotiated customer connection contract;
- “customer connection service” means a service that consists of—
- 10 (a) the connection of any premises to an electricity distributor’s distribution system; or
- (b) the increase in the maximum capacity of the connection of any premises to an electricity distributor’s distribution system;
- 15 “customer supply contract” means a standard form customer supply contract or a negotiated customer supply contract;
- “Department” means the administrative unit to which responsibility for this Act is allocated under section 14 of the *Public Sector Management Act 1994*;
- 20 “determined fee” means the fee determined under section 44 for the purposes of the provision in which the expression occurs;
- “distribution district”, in relation to an electricity distributor licensed under this Act, means the distribution district described in the distributor’s licence;
- 25 “distribution system” means the electricity power lines and associated equipment and electricity structures that are used to convey electricity to the premises of customers and to control the flow of electricity to those premises;
- 30 “electrical installation” means the electrical wiring and associated equipment used to convey electricity within premises to which electricity is supplied from a distribution system and to control the flow of electricity within the premises, but does not include anything connected to and extending or situated beyond an electrical outlet socket;
- 35 “electricity distributor” means a person who owns or controls a distribution system;
- “electricity distributor’s licence” means a licence referred to in section 5;

- “electricity structure” means any structure (other than a building) that is used to carry overhead lines or associated equipment and includes any structure that is used for the purposes of street lighting;
- 5 “franchise customer” means a person who is not a non-franchise customer;
- “licence” means an electricity distributor’s licence or a retail supplier’s licence;
- “negotiated customer connection contract” means a contract entered into under Division 3 of Part II;
- 10 “negotiated customer supply contract” means a contract entered into under Division 3 of Part III;
- “non-franchise customer” means a person who is a non-franchise customer by virtue of an order under section 39;
- 15 “premises” includes any building or part of a building, any structure or part of a structure, any land (whether built on or not) and any river, lake or other waters;
- “retail customer” means a person to whose premises electricity is supplied under a customer supply contract;
- 20 “retail supplier” means a person who supplies electricity under a customer supply contract;
- “retail supplier’s licence” means a licence referred to in section 24;
- “standard form customer connection contract” means a contract entered into under Division 2 of Part II;
- 25 “standard form customer supply contract” means a contract entered into under Division 2 of Part III;
- “supply”, in relation to electricity, means the supply of electricity by means of a distribution system.

PART II—NETWORK OPERATIONS

Division 1—Distribution systems

30 Operation of distribution systems for retail supply

4. A person shall not operate a distribution system for the purpose of conveying electricity for or on behalf of retail suppliers otherwise than under the authority of an electricity distributor’s licence.

Penalty:

- (a) if the offender is a natural person—100 penalty units;
- (b) if the offender is a body corporate—500 penalty units.

Licences

5 **5. (1)** The Minister may grant electricity distributors' licences for the purposes of this Act.

(2) The Schedule has effect in relation to the granting, variation, transfer and cancellation of electricity distributors' licences.

Right of connection to local distribution system

10 **6. (1)** Application may be made to an electricity distributor—

- (a) by a person who owns or occupies premises within the distributor's distribution district (other than a person who is entitled to the provision of customer connection services under an agreement or arrangement other than a customer connection contract); or

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- (b) by any other person on behalf of such a person;

for the provision of customer connection services to those premises

(2) An electricity distributor to which an application is made shall—

- (a) provide customer connection services to the applicant's premises under the customer connection contract applicable to the applicant; or

20

- (b) ensure that customer connection services are so provided.

(3) The right that a person has under this section to have premises provided with customer connection services is subject to any provision of this Act or the regulations that authorises the disconnection of those premises from, or the refusal to connect those premises to, a distribution system.

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(4) It is a condition of an electricity distributor's licence that the distributor fulfil the obligations imposed on it by this section.

30 **Electricity distributors to convey electricity for licensed retail suppliers only**

7. It is a condition of an electricity distributor's licence that the distributor shall not operate its distribution system for the purpose of conveying electricity for or on behalf of a retail supplier unless the retail supplier holds a retail supplier's licence.

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Electricity distributors to hold retail suppliers' licences

8. It is a condition of an electricity distributor's licence that the electricity distributor shall hold a retail supplier's licence at all times during which it holds an electricity distributor's licence.

5 **Electricity distributors to connect premises under customer connection contracts**

9. It is a condition of an electricity distributor's licence that the distributor shall not provide a customer connection service otherwise than under a customer connection contract.

10 *Division 2—Standard form customer connection contracts*

Procedure for making standard form customer connection contracts

15 10. (1) An electricity distributor shall prepare a standard form customer connection contract to establish the conditions on which it will provide customer connection services.

(2) An electricity distributor shall notify any prescribed body, and shall have due regard to its comments, before completing its preparation of a standard form customer connection contract.

20 (3) Different forms of customer connection contract may be prepared for different classes of customer.

Matters for which standard form customer connection contracts are to provide

- 25 11. (1) A standard form customer connection contract shall make provision for—
- (a) the basis on which charges for its customer connection services are to be calculated;
 - (b) any security to be provided by customers for payment of any such charges;
 - 30 (c) the standard of service to be provided to customers by the electricity distributor;
 - (d) the requirements to be complied with by customers under Division 4;
 - (e) the circumstances under which premises may be disconnected from the electricity distributor's distribution system;
 - 35 (f) the procedures established by the electricity distributor for handling enquiries and complaints made by customers, and resolving

disputes with customers, in relation to matters arising under the contract; and

(g) such other matters as are prescribed.

(2) A standard form customer connection contract shall—

5 (a) state that this Act confers powers, duties, rights and obligations on the electricity distributor and customers; and

(b) briefly describe the nature of those powers, duties, rights and obligations;

but is not unenforceable by reason only of a failure to do so.

10 (3) A standard form customer connection contract shall comply with any conditions imposed on the electricity distributor by its electricity distributor's licence but is not unenforceable by reason only of a failure to do so.

15 (4) A standard form customer connection contract shall not be inconsistent with this Act or the regulations and is unenforceable to the extent of any such inconsistency.

Effect of standard form customer connection contracts

12. (1) A standard form customer connection contract takes effect—

20 (a) on the day on which notice of its terms is first published in a daily newspaper circulating throughout the Territory; or

(b) on such later day as is specified in the notice.

(2) A notice under this section shall—

(a) specify the day on which the customer connection contract is to take effect; and

25 (b) include such other particulars as are prescribed.

(3) A notice under this section may be of general application or be limited in its application by reference to specified exceptions or factors.

30 (4) A standard form customer connection contract does not have effect in respect of any period before the day specified in the relevant notice as the day on or after which the contract is to take effect.

35 (5) On the day on which a customer applies to an electricity distributor for the provision of customer connection services, the customer and the electricity distributor are taken to have entered into an agreement for the provision of customer connection services on the conditions set out in the relevant standard form customer connection contract, and the contract is enforceable accordingly.

Amendment of standard form customer connection contracts

13. (1) An electricity distributor may amend a standard form customer connection contract to vary the terms on which it will provide customer connection services.

5 (2) This Division applies to an amendment of a standard form customer connection contract in the same way as it applies to a standard form customer connection contract.

Division 3—Negotiated customer connection contracts

Negotiated customer connection contracts

10 14. (1) This section applies to contracts for the provision of customer connection services by an electricity distributor to a customer where the services are not to be provided in accordance with any of the distributor's standard form customer connection contracts.

15 (2) A customer connection contract to which this section applies may contain such terms as the electricity distributor and the customer may agree and is enforceable accordingly.

20 (3) A customer connection contract to which this section applies shall comply with any conditions imposed on the electricity distributor by its electricity distributor's licence but is not unenforceable by reason only of a failure to do so.

(4) A customer connection contract to which this section applies shall not be inconsistent with this Act or the regulations and is unenforceable to the extent of any such inconsistency.

Division 4—Requirements relating to customer connection services

Application

25 15. (1) This Division applies to a person who applies to an electricity distributor for the provision of customer connection services or to whom customer connection services are provided.

30 (2) An electricity distributor may refuse to provide customer connection services to a person who fails to comply with a requirement imposed under this Division.

Contributions to augmentation of distribution system

35 16. (1) An electricity distributor may require a new customer to contribute towards the costs incurred, or to be incurred, by the distributor in—

- (a) extending its distribution system; or

(b) increasing the capacity of the system;

to enable the distributor to provide customer connection services to the customer.

5 (2) For the purpose of ensuring that previously incurred costs of the kind referred to in subsection (1) are equally borne by customers in the same vicinity, the electricity distributor may—

(a) require further new customers to contribute towards the costs; and

10 (b) apply the whole or any part of the contributions received from those customers to the repayment of existing customers who have previously contributed towards those costs.

(3) An electricity distributor may not require a contribution referred to in paragraph (2) (a) if—

15 (a) the total costs incurred or to be incurred by the distributor (excluding any amounts repaid, or to be repaid, in accordance with paragraph (2) (b)) have already been recovered; or

(b) the costs were incurred more than 6 years before the day on which the new customer applied for the provision of customer connection services.

Service lines

20 17. (1) An electricity distributor may require the installation of such service lines, and provision for their attachment, as it considers necessary to provide a supply of electricity to a customer.

(2) The type, construction and route of a service line and its point of connection shall be as determined by the electricity distributor.

25 (3) An electricity distributor may require premises to be provided with more than 1 point of connection if the distributor considers it necessary to avoid interference with the supply of electricity to any other premises.

Service equipment

30 18. (1) An electricity distributor may require the installation of such service equipment, and provision for its mounting, as it considers necessary for the provision of a safe and efficient supply of electricity to a customer.

(2) The position and standards of installation of service equipment shall be as determined by the electricity distributor.

Transformers

35 19. (1) This section applies if, in the opinion of the electricity distributor, the supply of electricity required by a customer—

- (a) exceeds that which can be provided by a service line from its street mains; and
- (b) can best be given by installing transformers, switchgear or other equipment on the premises to be supplied.

5 (2) Where this section applies, the electricity distributor may require the customer to provide for use by the distributor, free of cost, a place within those premises to accommodate the transformers, switchgear or other equipment that the distributor considers should be installed.

10 (3) The place provided shall be a place approved by the electricity distributor and shall be enclosed in a manner approved by the distributor.

Electricity meters

20. (1) An electricity distributor may require the installation of such electricity meters as it considers necessary in order to ascertain the quantity of electricity supplied to a customer.

15 (2) The position and standard of installation of electricity meters shall be as determined by the electricity distributor.

Requirements relating to installation and use of apparatus

21. (1) An electricity distributor may—

- 20 (a) impose such requirements relating to the installation and use of electrical appliances and equipment by a customer as the distributor considers necessary to prevent or minimise adverse effects on the supply of electricity to other customers;
- (b) impose requirements relating to loading of, and the balancing of load over, the phases of a customer's electricity supply;
- 25 (c) impose requirements relating to the minimum rupture rating or minimum breaking capacity of a customer's main protective devices; and
- (d) require a customer to install relays, current transformers and other protective equipment having characteristics to suit the distributor's protective system.

30 (2) A customer shall comply with any requirements imposed on him or her under this section.

Customer may choose supplier or contractor

35 22. (1) For the purpose of complying with any requirements imposed under this Division or under a customer connection contract, a customer may—

- 5
- (a) elect to have any required electrical or other goods provided by the electricity distributor (in the case of goods that are available from the distributor) or by any other person; or
 - (b) elect to have any required electrical or other services provided by the electricity distributor (in the case of services that are available from the distributor) or by any other person.

(2) A person shall not provide prescribed electrical or other services unless he or she is accredited, in accordance with the regulations, to provide those services.

10 Penalty:

- (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

Sealing of electrical installations

15 **23.** An electricity distributor may attach seals to a customer's electrical installation if it considers it appropriate to do so.

PART III—RETAIL SUPPLY OF ELECTRICITY

Division 1—Electricity supply

Licences

20 **24. (1)** The Minister may grant retail suppliers' licences for the purposes of this Act.

(2) A retail supplier's licence may only be granted to—

- (a) a person who holds a retail supplier's licence under the *Electricity Supply Act 1995* of New South Wales;
- 25 (b) ACTEW; or
- (c) ACTEW Energy Limited.

(3) The Schedule has effect in relation to the granting, variation, transfer and cancellation of retail suppliers' licences.

Right to supply from local electricity distributor for all franchise and non-franchise customers

30 **25. (1)** Application may be made to an electricity distributor—

- (a) by a person who owns or occupies premises that are connected to the distributor's distribution system; or
- (b) by any other person on behalf of such a person;

for the supply of electricity to those premises at a rate not exceeding the maximum capacity of the connection to the system.

(2) An electricity distributor to which an application is made shall—

- 5 (a) supply electricity to the applicant's premises under the customer supply contract applicable to the applicant; or
- (b) ensure that electricity is so supplied.

10 (3) The right that a person has under this section to have premises supplied with electricity is subject to any provision of this Act or the regulations that authorises the refusal, suspension or discontinuance of the supply of electricity.

(4) It is a condition of a retail supplier's licence held by an electricity distributor that the distributor fulfil the obligations imposed on it by this section.

Discrimination prohibited

15 26. (1) It is unlawful for a retail supplier to—

- (a) refuse to supply electricity to any person; or
- (b) supply electricity to any person on terms that are less advantageous than those on which the supplier supplies electricity to other persons;

20 on the basis that the person uses or supplies alternative forms of energy, uses or supplies energy from alternative sources or uses or supplies products, processes, designs or services that reduce the demand for energy.

(2) It is a condition of a retail supplier's licence that the retail supplier does not contravene this section.

25 Supply of electricity to franchise customers

27. (1) It is a condition of a retail supplier's licence that the supplier shall not supply electricity to the premises of a franchise customer otherwise than—

- 30 (a) in the case of an electricity distributor—for the purpose of supplying electricity to the customer under the obligations imposed on the distributor by section 25; or
- (b) in the case of any other retail supplier—for the purpose of supplying electricity to the customer on behalf of an electricity distributor under the obligations imposed on the distributor by section 25.
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(2) This section does not affect any arrangements approved by the Minister under which an electricity distributor supplies electricity to

franchise customers in a distribution district of another electricity distributor that is adjacent to its own distribution district

Supply of electricity to non-franchise customers

5 **28.** Subject to section 25, a retail supplier may, but is not required to, supply electricity to the premises of a non-franchise customer.

Retail suppliers to supply electricity under customer supply contracts

10 **29.** It is a condition of a retail supplier's licence that the supplier shall not supply electricity to the premises of a retail customer otherwise than under a customer supply contract.

Division 2—Standard form customer supply contracts

Procedure for making standard form customer supply contracts

15 **30. (1)** A retail supplier shall prepare a standard form customer supply contract to establish the conditions on which it will supply electricity to the premises of its franchise customers.

(2) A retail supplier shall notify any prescribed body, and shall have due regard to its comments, before completing its preparation of a standard form customer supply contract.

20 **(3)** Different forms of customer supply contract may be prepared of different classes of franchise customers.

Matters for which standard form customer supply contracts are to provide

31. (1) A standard form customer supply contract shall make provision for—

- 25 (a) the basis on which charges for the supply of electricity to franchise customers are to be calculated;
- (b) any security to be provided by franchise customers for payment of any such charges;
- 30 (c) the standard of service to be provided to franchise customers by the retail supplier;
- (d) the circumstances under which the supply of electricity to franchise customers may be discontinued;
- 35 (e) the procedures established by the retail supplier for handling enquiries and complaints made by franchise customers, and resolving disputes with franchise customers, in relation to matters arising under the contract;

- (f) the estimation of electricity supplied otherwise than through an electricity meter or in circumstances in which an electricity meter fails to operate or fails to operate correctly;
- 5 (g) the rate at which electricity is to be taken to have been supplied between consecutive meter readings; and
- (h) such other matters as are prescribed.
- (2) A standard form customer supply contract shall—
- (a) state that this Act confers powers, duties, rights and obligations on the retail supplier and franchise customers; and
- 10 (b) briefly describe the nature of those powers, duties, rights and obligations.
- (3) A standard form customer supply contract shall comply with any conditions imposed on the retail supplier by its retail supplier's licence but is not unenforceable by reason only of a failure to do so.
- 15 (4) A standard form customer supply contract shall not be inconsistent with this Act or the regulations and is unenforceable to the extent of any such inconsistency.

Effect of standard form customer supply contracts

- 20 32. (1) A standard form customer supply contract takes effect—
- (a) on the day on which notice of its terms is first published in a daily newspaper circulating throughout the Territory; or
- (b) on such later day as is specified in the notice.
- (2) A notice under this section shall—
- 25 (a) specify the day on which the customer supply contract is to take effect; and
- (b) include such other particulars as are prescribed.
- (3) A notice under this section may be of general application or be limited in its application by reference to specified exceptions or factors.
- 30 (4) A standard form customer supply contract does not have effect in respect of any period before the day specified in the relevant notice as the day on or after which the contract is to take effect.
- 35 (5) On the day on which a customer applies to a retail supplier for the supply of electricity, the customer and the retail supplier are taken to have entered into an agreement for the provision of electricity on the conditions set out in the relevant standard form customer supply contract, and the contract is enforceable accordingly.

Amendment of standard form customer supply contracts

33. (1) A retail supplier may amend a standard form customer supply contract to vary the terms on which it supplies electricity to franchise customers.

5 (2) This Division applies to an amendment of a standard form customer supply contract in the same way as it applies to a standard form customer supply contract.

Division 3—Negotiated customer supply contracts

Negotiated customer supply contracts

10 34. (1) This section applies to—

- (a) customer supply contracts for non-franchise customers; and
- (b) customer supply contracts for franchise customers where the retail supplier and the franchise customer agree for electricity to be supplied otherwise than under any of the retail supplier's standard form customer supply contracts.

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(2) A customer supply contract to which this section applies may contain such terms as the retail supplier and customer may agree and the contract is enforceable accordingly.

20 (3) A negotiated customer supply contract shall comply with any conditions imposed on the retail supplier by its retail supplier's licence but is not unenforceable by reason only of a failure to do so.

(4) A negotiated customer supply contract shall not be inconsistent with this Act or the regulations and is unenforceable to the extent of any such inconsistency.

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PART IV—REVIEW OF DECISIONS

Review of decisions of the Minister

35. Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Minister—

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- (a) under subclause 4 (1) of the Schedule refusing to grant or transfer a licence;
- (b) under subclause 4 (1) of the Schedule imposing a condition on a licence granted or transferred under that subclause;
- (c) under paragraph 6 (1) (b) of the Schedule imposing conditions on a licence;

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- (d) under subclause 7 (1) of the Schedule varying the conditions of a licence,

- (e) under paragraph 8 (1) (a) of the Schedule imposing a monetary penalty on the holder of a licence; or
- (f) under paragraph 8 (1) (b) of the Schedule cancelling a licence.

Notification of decisions

5 **36. (1)** Where the Minister makes a decision of the kind referred to in section 35, he or she shall cause notice in writing of the decision to be given—

- (a) in the case of a decision referred to in paragraph 35 (a) or (b)—to the applicant; or
- 10 (b) in any other case—to the holder of the licence.

(2) A notice under subsection (1) shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

15 **Appeals against decisions of electricity distributors and retail suppliers**

37. (1) A person may appeal against—

- (a) a decision of an electricity distributor concerning a charge payable by the person under a standard form customer connection contract; or
- 20 (b) a decision of a retail supplier concerning—
 - (i) the supplier's classification of the person as a franchise or non-franchise customer; or
 - (ii) a charge payable by the person under a standard form customer supply contract.

25 **(2)** The procedures for making and dealing with an appeal shall be as prescribed by the regulations.

(3) Without limiting the generality of subsection (2), the regulations may provide for—

- (a) the summary dismissal of appeals;
- 30 (b) the referral of appeals to an arbitrator;
- (c) the arbitrator's decision on an appeal to be final and binding on the parties to the appeal; and
- (d) the costs of arbitrating an appeal and the apportionment of those costs between the parties to the appeal.

PART V—MISCELLANEOUS

Charges for the use of electricity prohibited

5 **38. (1)** A person to whose premises electricity is supplied under a customer supply contract shall not charge any other person for the use of electricity so supplied.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

10 **(2)** Subsection (1) does not prohibit a person from imposing a separate charge for the use of a specified service or facility by reason of the fact that the use of that service or facility involves the consumption of electricity.

(3) Subsection (1) does not prohibit a landlord from imposing a charge for electricity supplied to a tenant if—

- 15 (a) the quantity of electricity so supplied is measured by a separate electricity meter that complies with the regulations; and
- (b) the charge imposed for the electricity so supplied is not greater than the maximum allowable amount.

20 **(4)** A landlord who charges a tenant for electricity supplied to the tenant shall—

- (a) make such records relating to the electricity so supplied, and
- (b) keep the records for such period;

as may be prescribed.

25 **(5)** The regulations may require the landlord to furnish the tenant with a copy of any records made under this section.

(6) In this section—

“landlord” means—

- 30 (a) the owner or lessor of any premises, whether business, residential or otherwise; or
- (b) the proprietor or operator of any hotel, motel, inn, hostel, boarding or rooming house, holiday flats or cabins, caravan park or campsite or any other premises prescribed by the regulations;

35 “maximum allowable amount”, in relation to a quantity of electricity supplied during a specific period, means—

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- (a) the amount prescribed by, or calculated in accordance with, the regulations for a similar quantity of electricity supplied during the same period; or
 - (b) if no such regulations are in force, the amount that the local electricity distributor would have charged under a standard form customer supply contract for a similar quantity of electricity supplied during the same period;

“tenant” includes any person who occupies premises in respect of which some other person is a landlord.

10 **Non-franchise customers**

39. (1) The Minister may, by order published in the *Gazette*, declare any specified person, or any specified class of persons, to be non-franchise customers for the purposes of this Act.

- 15 (2) An order under this section shall take effect on the day on which it is published in the *Gazette* or on such later day as is specified in the order.

Unauthorised electricity supply arrangements unenforceable

- 20 **40.** An electricity supply arrangement is unenforceable by any person (other than a retail customer under a customer supply contract) unless, at the time the arrangement was made, the supplier was authorised by a licence to enter into it.

Customer connection contracts and customer supply contracts may be in the one document

41. Nothing in this Act prevents a customer connection contract and a customer supply contract being contained in a single document.

25 **Recovery of monetary penalties**

42. Any monetary penalty imposed by the Minister on the holder of a licence may be recovered in any court of competent jurisdiction.

Annual fees

- 30 **43.** A person who held, or is to be deemed to have held—
- (a) a distributor’s licence; or
 - (b) a retail supplier’s licence;

during a financial year, or any part of a financial year, shall, within 28 days after the end of the year, pay to the Department the determined fee in respect of the licence.

Power of Minister to determine fees

44. (1) The Minister may, by notice in the *Gazette*, determine fees for the purposes of this Act.

(2) A determined fee may be—

- 5
- (a) a specified amount; or
 - (b) an amount calculated in a specified manner.

Regulations

45. (1) The Executive may make regulations for the purposes of this Act.

10 **(2)** Without limiting the generality of subsection (1), the regulations may make provision for or in relation to—

- (a) the form, content and procedures for preparing and advertising standard form customer connection contracts and standard form customer supply contracts;
- 15 (b) the conditions that may be imposed on licences; and
- (c) the records to be kept by retail suppliers.

(3) The regulations may prescribe a penalty for an offence against the regulations not exceeding—

- (a) if the offender is a natural person—10 penalty units;
- 20 (b) if the offender is a body corporate—50 penalty units.

**SCHEDULE
LICENCES**

Sections 5 and 24

Licences

5 1. (1) Subject to any conditions imposed by or under this Act, an electricity distributor's licence authorises its holder, and any other person specified in the licence, to operate the distribution system specified in the licence for the purpose of conveying electricity for or on behalf of retail suppliers.

10 (2) Subject to any conditions imposed by or under this Act, a retail supplier's licence authorises its holder, and any other person specified in the licence, to supply electricity to retail customers.

Applications

2. An application for a licence or for the transfer of a licence shall—

- 15 (a) be in a form made available by the Minister;
- (b) set out, or be accompanied by, such information as is required by the form;
- (c) be lodged with the Minister; and
- (d) be accompanied by the determined fee.

Public consultation

20 3. (1) Before determining an application for an electricity distributor's licence or for the transfer of such a licence, the Minister shall cause notice of the application to be published in the *Gazette* and in a daily newspaper circulating throughout the Territory.

(2) The notice shall specify—

- 25 (a) the nature of the licence to which the application relates;
- (b) the identity of the proposed holder of the licence;
- (c) the area in respect of which the licence, if granted or transferred, would operate;
- (d) where submissions in relation to the application should be lodged;
- 30 (e) the time (being not less than 40 days from the day on which the notice is published) within which any such submissions should be lodged; and
- (f) such other matters as may be prescribed.

SCHEDULE—continued

(3) The Minister shall give due consideration to matters arising from any submissions under this clause.

5 (4) The Minister shall cause to be prepared a report that summarises the substance of any submissions received in relation to an application for a licence or for the transfer of a licence.

(5) The report shall—

- 10 (a) indicate the Minister's decision in relation to the application,
(b) contain such other information as may be prescribed; and
(c) be kept available at the head office of the Department for inspection by members of the public, free of charge, during normal business hours.

Determination of applications

4. (1) The Minister may determine an application for a licence or for the transfer of a licence by—

- 15 (a) granting, or transferring, the licence either unconditionally or subject to conditions of any of the kinds referred to in clause 6; or
(b) refusing the application.

(2) An application may be refused on any of the following grounds.

- 20 (a) that the proposed holder of the licence fails to satisfy such technical and prudential criteria as have been adopted by the Minister to determine whether a person is able to operate a viable business as an electricity distributor or retail supplier, as the case may be,
(b) such grounds as may be prescribed;
25 (c) such grounds as the Minister considers relevant, having regard to the need to promote a competitive retail market for electricity, to prevent misuse of market power and to ensure the security and reliability of the Territory electricity supply system.

(3) The Minister shall consult with the Minister administering the *Air Pollution Act 1984* before granting a licence under this clause.

30 **Duration of licences**

5. Subject to the conditions imposed on it, a licence remains in force until it is cancelled.

Conditions of licences

6. (1) A licence is subject to the following conditions:

SCHEDULE—continued

- (a) the conditions imposed by this Act and the regulations;
 - (b) such other conditions (not inconsistent with those imposed by this Act and the regulations) as the Minister may from time to time impose in relation to the licence.
- 5 (2) Without limiting the generality of paragraph (1) (b), the Minister may impose the following kinds of conditions on a licence:
- (a) a condition specifying the period for which the licence is to remain in force;
 - 10 (b) a condition requiring the holder of the licence to exercise its functions under this Act in accordance with specified guidelines or subject to specified restrictions;
 - (c) a condition requiring the holder of the licence to continue to satisfy such technical and prudential criteria as have been adopted by the Minister to determine whether a person is able to operate a viable
15 business as an electricity distributor or retail supplier, as the case may be;
 - (d) a condition requiring the holder of the licence to maintain specified insurance cover in respect of specified risks;
 - 20 (e) a condition requiring the affairs of the holder of the licence in relation to the operation of a distribution system to be kept separate, to the extent specified in the condition, from the affairs of the holder of the licence in relation to the supply of electricity;
 - (f) a condition requiring the holder of the licence to—
 - 25 (i) prepare and submit to the Minister a plan setting out (in accordance with guidelines established by the Minister) the holder's policies, practices and procedures in relation to the conduct of its affairs under the licence; and
 - (ii) conduct its affairs under the licence in accordance with the plan so prepared;
 - 30 (g) a condition requiring the holder of the licence to furnish to the Minister (at such times and in respect of such periods as the Minister may determine) such information as the Minister may determine to enable the Minister to ascertain whether or not the holder is complying with the other conditions of the licence.
- 35 (3) A condition referred to in paragraph (2) (e) may require affairs that are to be kept separate to be conducted by separate divisions of the same legal entity or by separate legal entities.

SCHEDULE—continued

(4) Without limiting the generality of paragraph (1) (b), the Minister shall impose the following conditions on each retail supplier's licence:

- (a) a condition requiring the holder of the licence to develop strategies of a kind referred to in subclause (6);
- 5 (b) a condition requiring the auditing by the Pollution Control Authority, at intervals of not more than 3 years, of the effectiveness of the strategies referred to in paragraph (a);
- (c) a condition requiring the holder of the licence to develop 1, 3 and 5 year plans for—
 - 10 (i) energy efficiency and demand management strategies, and
 - (ii) strategies for purchasing energy from sustainable sources, including consideration of cogeneration, purchasing of renewable energy, buy-back schemes from grid-connected solar cells on buildings and remote area power systems;
- 15 (d) a condition requiring the holder of the licence to prepare and publish annual reports in relation to the following matters:
 - (i) the implementation of its demand management strategies;
 - (ii) the carbon dioxide emissions arising from the production of
20 electricity supplied by it, as measured in accordance with a methodology approved by the Minister after consultation with the Pollution Control Authority;
 - (iii) its performance in meeting the minimum standards of service required under its standard form customer supply contracts;
 - 25 (iv) the sources of electricity supplied by it and the quantity of electricity supplied from those sources as proportions of the total electricity supplied by it.

30 (5) Without limiting the generality of paragraph (1) (b), the Minister shall impose the following conditions on each electricity distributor's licence:

- 35 (a) a condition requiring the holder of the licence, before expanding its distribution system or the capacity of its distribution system, to carry out investigations (being investigations to ascertain whether it would be cost-effective to avoid or postpone the expansion by implementing demand management strategies) in circumstances in which it would be reasonable to expect that it would be cost effective to avoid or postpone the expansion by implementing such strategies;

SCHEDULE—continued

- (b) a condition requiring the holder of the licence to prepare and publish annual reports in relation to the investigations carried out by it pursuant to the condition referred to in paragraph (a).
- (6) The strategies referred to in paragraph (4) (a) shall—
- 5 (a) be based on the principle of achieving the reduction of greenhouse gas emissions, from electricity supplied to customers in the Territory, as the electricity sector's contribution to achieving the target of reducing greenhouse gas emissions, as agreed in the National Greenhouse Response Strategy 1992 and the
- 10 InterGovernmental Agreement on the Environment, or as determined by the Council of Australian Governments;
- (b) be arrived at by negotiation with the Minister; and
- (c) provide for independent verification of emissions.
- (7) A report on each audit prepared by the Pollution Control Authority
- 15 in accordance with a condition of the kind referred to in paragraph (4) (b) shall—
- (a) be made publicly available at the head office of the Department; and
- (b) be laid before the Legislative Assembly within 15 sitting days after it is made.
- 20 (8) The Minister shall review the conditions of a retail supplier's licence referred to in paragraphs (4) (a), (b) and (c) at the end of the period of 3 years after the conditions are imposed in order to assess the environmental performances of the holder of the licence and the environmental consequences of its work and activities.
- 25 (9) The Minister shall consult with the Minister administering the *Air Pollution Act 1984* before imposing conditions under this clause.

Variation of conditions of licences

7. (1) The Minister may vary the conditions of a licence.
- (2) The Minister shall consult with the Minister administering the *Air*
- 30 *Pollution Act 1984* before varying the conditions of a licence under this clause.

Enforcement of licences

8. (1) The Minister may do either or both of the following:
- 35 (a) impose a monetary penalty not exceeding \$100,000 on the holder of a licence;
- (b) cancel a licence.

SCHEDULE—continued

(2) A retail supplier's licence held by an electricity distributor shall not be cancelled unless the electricity distributor's licence held by the distributor is also cancelled.

- 5 (3) Action may be taken under this clause only if the holder of the licence has knowingly contravened—
- (a) the requirements of this Act or the regulations; or
 - (b) a condition of the licence.

Holder of licence to be notified of proposed action

9. The Minister shall not take action under clause 6, 7 or 8 unless—
- 10 (a) notice of the proposed action has been given to the holder of the licence;
- (b) the holder of the licence has been given a reasonable opportunity to make submissions in relation to the proposed action; and
- (c) the Minister has given due consideration to any such submissions.

15 **Register of licences**

10. (1) The Minister is to cause a register of licences to be kept at the head office of the Department.

(2) The register is to be kept available for inspection by members of the public, free of charge, during normal office hours.

- 20 (3) Copies of entries in the register are to be made available to members of the public, at cost, during normal office hours

NOTE

Penalty units

See section 33AA of the *Interpretation Act 1967*