

2017

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Climate Change and Sustainability)

# Utilities (Technical Regulation) Amendment Bill 2017

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# Utilities (Technical Regulation) Amendment Bill 2017

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## A Bill for

An Act to amend the *Utilities (Technical Regulation) Act 2014*, and for other purposes

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

1 **1 Name of Act**

2 This Act is the *Utilities (Technical Regulation) Amendment Act*  
3 *2017*.

4 **2 Commencement**

5 (1) This Act commences on a day fixed by the Minister by written  
6 notice.

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

9 *Note 2* A single day or time may be fixed, or different days or times may be  
10 fixed, for the commencement of different provisions (see [Legislation](#)  
11 [Act](#), s 77 (1)).

12 (2) If this Act has not commenced within 12 months beginning on its  
13 notification day, it automatically commences on the first day after  
14 that period.

15 (3) The [Legislation Act](#), section 79 (Automatic commencement of  
16 postponed law) does not apply to this Act.

17 **3 Legislation amended**

18 This Act amends the *Utilities (Technical Regulation) Act 2014*.

19 *Note* This Act also amends the *Tree Protection Act 2005* (see sch 1).

20 **4 Draft technical codes—consultation**  
21 **New section 13 (2) (aa)**

22 *insert*

23 (aa) if the draft technical code is for protecting the environment—  
24 the conservator of flora and fauna; and

1 **5 Offence—fail to comply with technical code**  
2 **New section 16 (2) and (3)**

3 *insert*

- 4 (2) A regulated utility commits an offence if—  
5 (a) a technical code applies to the regulated utility; and  
6 (b) the regulated utility fails to comply with a requirement of the  
7 technical code.

8 Maximum penalty: 30 penalty units.

- 9 (3) An offence against subsection (2) is a strict liability offence.

10 **6 Section 30**

11 *substitute*

12 **30 Meaning of *interference*—pt 5**

- 13 (1) In this part:  
14 *interference*, with a regulated utility network or network facility—  
15 (a) includes an action that—  
16 (i) interferes with, or is likely to interfere with, the safe or  
17 efficient operation of the network, the facility or the  
18 environment; or  
19 (ii) inhibits or obstructs, or is likely to inhibit or obstruct,  
20 lawful access to the network or facility; but  
21 (b) does not include the encroachment of vegetation within the  
22 minimum distance from an aerial line, worked out under  
23 section 41D, on unleased territory land, rural leased land or  
24 national land.

25 *Note* Under s 41D, a responsible utility for an electrical network is  
26 responsible for the clearance of vegetation near an aerial line on  
27 unleased territory land, rural leased land or national land.

- 1 (2) In this section:  
2 *aerial line*—see section 41C.  
3 *rural leased land*—see section 41A.

4 **7 New part 5A**

5 *insert*

6 **Part 5A Vegetation and electrical**  
7 **infrastructure management**

8 **Division 5A.1 General**

9 **41A Definitions—pt 5A**

10 In this part:

11 *occupier*, of premises, includes—

- 12 (a) a person whom a responsible utility believes on reasonable  
13 grounds to be an occupier of the premises; and  
14 (b) a person apparently in charge of the premises.

15 *owner*, in relation to land—

- 16 (a) means a person who leases or subleases the land; and  
17 (b) includes an occupier of premises on the land.

18 *responsible utility* means the responsible utility for an electricity  
19 network.

20 *rural lease*—see the *Planning and Development Act 2007*,  
21 section 234.

22 *rural leased land* means land in relation to which a rural lease is  
23 granted.

1    **41B       National land**

2               Functions of the kind exercisable by a responsible utility under this  
3               part are exercisable in relation to national land only by agreement  
4               with the Commonwealth.

5    **Division 5A.2        Vegetation management**

6    **41C       Definitions—div 5A.2**

7               In this division:

8               ***aerial cable*** means any insulated or covered conductor or assembly  
9               of cores (with or without protective covering) that is above ground  
10              or water, suspended in the open air between 2 or more supports and  
11              forms part of an electricity network.

12              ***aerial conductor*** means any bare conductor that is above ground or  
13              water, suspended in the open air between 2 or more supports and  
14              forms part of an electricity network.

15              ***aerial line*** means an aerial cable, aerial conductor or aerial service  
16              line.

17              ***aerial service line*** means the final span or section of a low voltage  
18              aerial conductor of an upstream network that is connected to a point  
19              of supply.

20              ***conductor*** means a finished circular stranded assembly consisting of  
21              3 or more metallic wires laid up together that has the specific  
22              function of carrying electrical current.

23              ***covered conductor*** means a conductor around which is applied a  
24              specified thickness of insulating material.

1            *insulated*, for a thing, means the thing is surrounded by a  
2            nonconducting substance that provides resistance to—

- 3            (a) the passage of current; or  
4            (b) disruptive discharges through or over the surface of the thing at  
5            the operating voltage; or  
6            (c) the injurious leakage of current.

7            *U*, for an aerial line, means its nominal voltage.

8            **41D        Clearance from aerial lines—vegetation**

9            (1) A responsible utility is responsible for the clearance of vegetation  
10           near an aerial line on the following (the *land*):

- 11           (a) unleased territory land;  
12           (b) rural leased land;  
13           (c) national land.

14           **Examples—par (a)**

15           park, nature strip, nature reserve, national park

16           **Example—par (b)**

17           farm

18           *Note*        An example is part of the Act, is not exhaustive and may extend, but  
19           does not limit, the meaning of the provision in which it appears (see  
20           [Legislation Act](#), s 126 and s 132).

21           (2) A responsible utility may—

- 22           (a) enter and occupy the land; and



- 1 (b) undertake any activity or work on the land that is reasonably  
2 necessary for the clearance of vegetation near an aerial line,  
3 including—
- 4 (i) the felling or lopping of trees; or  
5 (ii) the trimming of roots of trees or other plants; or  
6 (iii) the clearing or removal of vegetation.
- 7 *Note* A responsible utility must give notice to the owner of the land before  
8 entering or occupying the land (see s 41L).
- 9 (3) However, the responsible utility may only undertake an activity or  
10 work under subsection (2) (b) in accordance with a technical code  
11 (if any) that applies to the activity or work.
- 12 *Note* A responsible utility commits an offence if a technical code applies to  
13 the utility, and the utility fails to comply with a requirement of the code  
14 (see s 16 (2)).
- 15 (4) A responsible utility commits an offence if the responsible utility—  
16 (a) is responsible for the clearance of vegetation near an aerial line  
17 on the land; and  
18 (b) allows any part of a tree or other vegetation on the land to be  
19 too close to the aerial line.
- 20 Maximum penalty: 10 penalty units.
- 21 (5) An offence against subsection (4) is a strict liability offence.
- 22 (6) Subsection (4) does not apply if the responsible utility has a  
23 reasonable excuse.
- 24 (7) A part of a tree or other vegetation on the land is too close to an  
25 aerial line if at any time it is within the minimum distance from any  
26 part of the line worked out in accordance with table 41D.

1 (8) This section has effect in relation to a tree that is a registered tree  
 2 under the *Tree Protection Act 2005* subject to that Act, part 3  
 3 (Protection of trees).

4 *Note* Under the *Tree Protection Act 2005*, pt 3 it is an offence to damage a  
 5 registered tree (or do prohibited groundwork in the tree's protection  
 6 zone) unless the damage or groundwork is allowed under that Act.  
 7 Application may be made to the conservator for approval of tree  
 8 damaging activity or prohibited groundwork (including in urgent  
 9 circumstances).

**Table 41D**

column 1	column 2	column 3	column 4	column 5
direction in which minimum distance must be observed	minimum distance from insulated aerial cable or insulated aerial service line, where- $U \leq 1 \text{ kV}$	minimum distance from aerial conductor or covered aerial cable, where- $U \leq 1 \text{ kV}$	minimum distance from aerial conductor or aerial cable, where- $1 \text{ kV} < U \leq 33 \text{ kV}$	minimum distance from aerial conductor or aerial cable, where- $33 \text{ kV} < U \leq 132 \text{ kV}$
any direction	1.0m	1.5m	2.0m	3.0m

#### 10 **41E Measuring clearances from aerial lines**

11 For this Act, the minimum distance from any part of an aerial line is  
 12 to be measured from the nearest point to which the line sags or  
 13 swings.

### 14 **Division 5A.3 Electrical infrastructure management**

#### 15 **41F Definitions—div 5A.3**

16 In this division:

17 *electrical infrastructure*, means—

- 18 (a) powerlines and cables; and  
 19 (b) substations and equipment for monitoring, distributing,  
 20 converting, transforming or controlling electricity; and

- 
- 1 (c) a structure supporting overhead powerlines and cables; and  
2 (d) wires, ducts or pipes for wires or equipment; and  
3 (e) communication equipment for the management of an  
4 electricity network; and  
5 (f) anything else ancillary to paragraphs (a) to (e).

6 *network boundary* means a boundary between an electricity  
7 network and customers' premises worked out under section 53.

8 **41G Maintenance of electrical infrastructure within network**  
9 **boundary**

- 10 (1) A responsible utility is responsible for maintaining electrical  
11 infrastructure within the network boundary.
- 12 (2) A responsible utility commits an offence if the responsible utility—  
13 (a) is responsible for maintaining electrical infrastructure within  
14 the network boundary; and  
15 (b) fails to adequately maintain the electrical infrastructure.

16 Maximum penalty: 10 penalty units.

- 17 (3) Subsection (2) does not apply if the responsible utility has a  
18 reasonable excuse.

19 **41H Maintenance of electrical infrastructure within network**  
20 **boundary—powers**

- 21 (1) For section 41G, a responsible utility may maintain electrical  
22 infrastructure and, for that purpose, do anything reasonably  
23 necessary, including—  
24 (a) entering and occupying land; and

1 (b) undertaking any work on the land for maintaining electrical  
2 infrastructure.

3 *Note* A responsible utility must give notice to the owner of land before  
4 entering or occupying the land (see s 41L).

5 (2) However, the responsible utility may only undertake work under  
6 subsection (1) (b) in accordance with a technical code (if any) that  
7 applies to the work.

8 *Note* A responsible utility commits an offence if a technical code applies to  
9 the utility, and the utility fails to comply with a requirement of the code  
10 (see s 16 (2)).

11 (3) For subsection (1) (b), the maintenance of electrical infrastructure  
12 includes the following:

13 (a) the alteration, removal, repair or replacement of any part of the  
14 electrical infrastructure;

15 (b) inspecting or otherwise ensuring the proper functioning of the  
16 electrical infrastructure from time to time;

17 (c) constructing, installing or placing any plant, machinery,  
18 equipment or goods;

19 (d) interrupting the provision of utility services by the responsible  
20 utility;

21 (e) demolishing, destroying or removing any electrical  
22 infrastructure installed or used by the responsible utility in  
23 relation to the provision of a utility service.

- 1 (4) This section has effect in relation to a tree that is a registered tree  
2 under the *Tree Protection Act 2005* subject to that Act, part 3  
3 (Protection of trees).

4 *Note* Under the *Tree Protection Act 2005*, pt 3 it is an offence to damage a  
5 registered tree (or do prohibited groundwork in the tree's protection  
6 zone) unless the damage or groundwork is allowed under that Act.  
7 Application may be made to the conservator for approval of tree  
8 damaging activity or prohibited groundwork (including in urgent  
9 circumstances).

10 **41I Inspection of electrical infrastructure outside network**  
11 **boundary**

- 12 (1) This section applies in relation to electrical infrastructure—  
13 (a) on rural leased land (the *land*); and  
14 (b) outside the network boundary.
- 15 (2) A responsible utility—  
16 (a) must inspect the electrical infrastructure at least every 3 years  
17 to check if it is maintained adequately and in a safe state; and  
18 (b) may enter the land to carry out the inspection.
- 19 *Note* A responsible utility must give notice to the owner of the land before  
20 entering the land (see s 41L).
- 21 (3) If, on inspection of the electrical infrastructure, the responsible  
22 utility is satisfied on reasonable grounds that the electrical  
23 infrastructure is not being maintained adequately and is in an unsafe  
24 state, the responsible utility may give the owner written notice to  
25 take whatever action is necessary to repair and restore the electrical  
26 infrastructure to a safe state.
- 27 (4) The notice must—  
28 (a) state the repairs needed to restore the electrical infrastructure to  
29 a safe state; and

- 1 (b) require the owner to take stated action to repair and restore the  
2 electrical infrastructure within a stated period; and
- 3 (c) contain a statement about the effect of subsection (6); and
- 4 (d) contain a statement about the effect of section 41M  
5 (Management operations outside network boundary—dispute);  
6 and
- 7 *Note* The owner may make a submission to the responsible utility and  
8 apply to the ACAT for a determination under s 41M.
- 9 (5) The stated period must be a reasonable period (not less than  
10 14 days) starting on the date the notice is given to the owner.
- 11 (6) If the owner does not comply with the notice—
- 12 (a) the responsible utility may do whatever is necessary to repair  
13 and restore the electrical infrastructure to a safe state; and
- 14 (b) the reasonable expenses incurred by the responsible utility are  
15 a debt due to the responsible utility by the owner.
- 16 *Note* A responsible utility must give notice to the owner of the land before  
17 repairing and restoring the electrical infrastructure to a safe state (see  
18 s 41L).
- 19 (7) In urgent circumstances, the responsible utility may do whatever is  
20 necessary to repair and restore the electrical infrastructure to a safe  
21 state—
- 22 (a) without giving notice to the owner under subsection (3); and  
23 (b) at the utility's expense.
- 24 (8) The responsible utility must, as soon as practicable after taking  
25 action under subsection (7), give written notice to the owner and the  
26 technical regulator about—
- 27 (a) the action taken to repair and restore the electrical  
28 infrastructure to a safe state; and
- 29 (b) the urgent circumstances that required the action.

1 (9) This section has effect in relation to a tree that is a registered tree  
2 under the *Tree Protection Act 2005* subject to that Act, part 3  
3 (Protection of trees).

4 *Note* Under the *Tree Protection Act 2005*, pt 3 it is an offence to damage a  
5 registered tree (or do prohibited groundwork in the tree's protection  
6 zone) unless the damage or groundwork is allowed under that Act.  
7 Application may be made to the conservator for approval of tree  
8 damaging activity or prohibited groundwork (including in urgent  
9 circumstances).

10 (10) In this section:

11 *urgent circumstances* means circumstances in which it is necessary  
12 to protect—

13 (a) the integrity of a regulated utility network or network facility;  
14 or

15 (b) the health or safety of people; or

16 (c) public or private property; or

17 (d) the environment.

## 18 **Division 5A.4 Performance of management** 19 **operations**

### 20 **41J Definitions—div 5A.4**

21 In this division:

22 *management operations* means an activity or work undertaken by a  
23 responsible utility—

24 (a) to clear vegetation near an aerial line under division 5A.2  
25 (Vegetation management); or

26 (b) to maintain electrical infrastructure within the network  
27 boundary under division 5A.3 (Electrical infrastructure  
28 management); or

1 (c) to inspect electrical infrastructure outside the network  
2 boundary under division 5A.3; or

3 (d) to repair and restore electrical infrastructure outside the  
4 network boundary to a safe state under section 41I (6) if the  
5 owner does not comply with a notice under section 41I (3).

6 *private land* means land other than public land.

7 *public land* means national or unleased territory land.

8 **41K Damage etc to be minimised**

9 In carrying out management operations, a responsible utility must  
10 take all reasonable steps to ensure that it causes as little  
11 inconvenience, detriment and damage as practicable.

12 **41L Notice to owner**

13 (1) This section applies to management operations on private land.

14 (2) Before a responsible utility starts the management operations, it  
15 must give the owner written notice of the proposed operations.

16 *Note* For how documents may be given, see the [Legislation Act](#), pt 19.5.

17 (3) The notice must—

18 (a) be given a reasonable period (not less than 7 days) before the  
19 management operations start; and

20 (b) so far as practicable, state the following:

21 (i) for vegetation clearance near an aerial line—the trees and  
22 vegetation affected and the activity proposed;

23 (ii) for maintenance of electrical infrastructure—the  
24 electrical infrastructure requiring maintenance and the  
25 activity proposed;

26 (iii) for the inspection of electrical infrastructure—the  
27 electrical infrastructure to be inspected;



- 1 (iv) for the repair and restoration of electrical infrastructure  
2 under section 41I (6)—
- 3 (A) that the utility intends to repair and restore the  
4 electrical infrastructure to a safe state; and
- 5 (B) that the reasonable expenses incurred by the  
6 responsible utility are a debt due to the responsible  
7 utility by the owner; and
- 8 (C) the effect of section 41M (Management operations  
9 outside network boundary—dispute); and

10 *Note* The owner may make a submission to the responsible  
11 utility and apply to the ACAT for a determination under  
12 s 41M.

- 13 (v) the period during which the activity is expected to be  
14 carried out.
- 15 (4) The owner may waive its right to all or part of the minimum period  
16 of notice under subsection (3) (a).
- 17 (5) Subsection (2) does not apply if the management operations are to  
18 be carried out in urgent circumstances in which it is necessary to  
19 protect—
- 20 (a) the integrity of a network or network facility; or  
21 (b) the health or safety of people; or  
22 (c) public or private property; or  
23 (d) the environment.

24 **41M Management operations outside network boundary—**  
25 **dispute**

- 26 (1) This section applies if—
- 27 (a) a responsible utility gives notice to an owner to repair and  
28 restore electrical infrastructure under section 41I (4); or

- 1 (b) the responsible utility gives notice to the owner under  
2 section 41L (3) (b) (iv) that—
- 3 (i) the utility intends to repair and restore the electrical  
4 infrastructure to a safe state; and
- 5 (ii) the reasonable expenses incurred by the responsible  
6 utility are a debt due to the responsible utility by the  
7 owner.
- 8 (2) The owner may—
- 9 (a) make a submission to the responsible utility about the repairs;  
10 or
- 11 (b) propose a different period for the repairs to be carried out.
- 12 (3) If the responsible utility and the owner cannot agree on the repairs,  
13 or the period for the repairs to be carried out, either the utility or the  
14 owner may apply to the ACAT for a determination of the repairs or  
15 the period.

## 16 **8 Dictionary, note 2**

17 *insert*

- 18 • conservator of flora and fauna
- 19 • national land
- 20 • territory land

## 21 **9 Dictionary, new definitions**

22 *insert*

23 *aerial cable*, for division 5A.2 (Vegetation management)—see  
24 section 41C.

25 *aerial conductor*, for division 5A.2 (Vegetation management)—see  
26 section 41C.

27 *aerial line*, for division 5A.2 (Vegetation management)—see  
28 section 41C.

- 1            *aerial service line*, for division 5A.2 (Vegetation management)—  
2            see section 41C.
- 3            *conductor*, for division 5A.2 (Vegetation management)—see  
4            section 41C.
- 5            *covered conductor*, for division 5A.2 (Vegetation management)—  
6            see section 41C.
- 7            *electrical infrastructure*, for division 5A.3 (Electrical infrastructure  
8            management)—see section 41F.
- 9            *insulated*, for a thing, for division 5A.2 (Vegetation management)—  
10           see section 41C.
- 11           *management operations*, for division 5A.4 (Performance of  
12           management operations)—see section 41J.
- 13           *network boundary*, for division 5A.3 (Electrical infrastructure  
14           management)—see section 41F.

## 15    **10    Dictionary, definitions of *occupier* and *owner***

- 16           *substitute*
- 17           *occupier*, of premises—
- 18           (a) for part 5A (Vegetation and electrical infrastructure  
19           management)—see section 41A; and
- 20           (b) for part 9 (Enforcement)—see section 76.
- 21           *owner*—
- 22           (a) for part 5A (Vegetation and electrical infrastructure  
23           management)—see section 41A; and
- 24           (b) in relation to a dam or proposed dam, for part 8 (Dams  
25           safety)—see section 57.

1 **11 Dictionary, new definitions**

2 *insert*

3 *private land*, for division 5A.4 (Performance of management  
4 operations)—see section 41J.

5 *public land*, for division 5A.4 (Performance of management  
6 operations)—see section 41J.

7 **12 Dictionary, definition of *responsible utility***

8 *substitute*

9 *responsible utility*—

10 (a) for this Act generally—for a regulated utility network or  
11 network facility, means a regulated utility that provides utility  
12 services using the regulated utility network or network facility;  
13 and

14 (b) for part 5A (Vegetation and electrical infrastructure  
15 management)—see section 41A.

16 **13 Dictionary, new definitions**

17 *insert*

18 *rural lease*, for part 5A (Vegetation and electrical infrastructure  
19 management)—see the *Planning and Development Act 2007*,  
20 section 234.

21 *rural leased land*, for part 5A (Vegetation and electrical  
22 infrastructure management)—see section 41A.

23 *U*, for an aerial line, for division 5A.2 (Vegetation management)—  
24 see section 41C.

1 **Schedule 1**      **Tree Protection Act 2005—**  
2 **Consequential amendments**

3 (see s 3)

4 **[1.1] Section 19 (1) (d) (iii)**

5 *substitute*

6 (iii) any of the following under the *Utilities (Technical*  
7 *Regulation) Act 2014*:

- 8 • a network protection notice given under section 32;
- 9 • section 41D (Clearance from aerial lines—  
10 vegetation);
- 11 • section 41H (Maintenance of electrical infrastructure  
12 within network boundary—powers);
- 13 • section 41I (Inspection of electrical infrastructure  
14 outside network boundary); or

15 **[1.2] New section 19 (1) (ea)**

16 *insert*

17 (ea) anything done in relation to a registered tree under any of the  
18 following provisions of the *Utilities (Technical Regulation)*  
19 *Act 2014* for protecting life or property if it is not practicable  
20 because of the urgency of the situation to obtain an approval  
21 under section 29:

- 22 (i) section 41D (Clearance from aerial lines—vegetation);
- 23 (ii) section 41H (Maintenance of electrical infrastructure  
24 within network boundary—powers);
- 25 (iii) section 41I (Inspection of electrical infrastructure outside  
26 network boundary); or

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 21 September 2017.

**2 Notification**

Notified under the [Legislation Act](#) on 2017.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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