

2024

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Treasurer  
and Minister for Water, Energy and Emissions Reduction)

# Independent Competition and Regulatory Commission Amendment Bill 2024

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J2023-1274

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

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FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Treasurer  
and Minister for Water, Energy and Emissions Reduction)

# Independent Competition and Regulatory Commission Amendment Bill 2024

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## A Bill for

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

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J2023-1274

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

Section 1

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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 *Independent Competition and Regulatory Commission*  
3 *Amendment Act 2024*.

4 **2 Commencement**

5 This Act commences 6 months after its notification day.

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

8 **3 Legislation amended**

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

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

12 **4 New part 9A**

13 *insert*

14 **Part 9A Enforcement of civil penalty**  
15 **provisions**

16 **Division 9A.1 Preliminary**

17 **54A Definitions—pt 9A**

18 In this part:

19 *conduct* means an act or a failure to act.

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

23 *court* means the Supreme Court.

1 **54B Part does not limit other powers of court**

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

4 **Division 9A.2 Enforceable undertakings**

5 **54C Enforceable undertakings**

6 (1) The commission may accept a written undertaking given by a person  
7 for this division in relation to the person's compliance with a civil  
8 penalty provision.

9 (2) The person may withdraw or amend the undertaking at any time, but  
10 only with the commission's consent.

11 **54D Application for enforcement of undertakings**

12 (1) If the commission considers that a person has contravened an  
13 undertaking given by the person under section 54C, it may apply to  
14 the court for an order under subsection (2).

15 (2) If the court is satisfied the person has contravened the undertaking,  
16 the court may make 1 or more of the following orders:

17 (a) an order that the person comply with the undertaking;

18 (b) an order that the person pay the Territory an amount up to the  
19 amount of any financial benefit the person has obtained directly  
20 or indirectly and that is reasonably attributable to the  
21 contravention;

22 (c) an order the court considers appropriate directing the person to  
23 compensate any other person who has suffered loss or damage  
24 as a result of the contravention;

25 (d) any other order the court considers appropriate.

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

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

### 5 **Division 9A.3 Civil penalty notices**

#### 6 **54E Service of civil penalty notice**

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

#### 13 **54F Contents of civil penalty notice**

14 A civil penalty notice must state the following:

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

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

15 **54G Amount payable under civil penalty notice**

- 16 (1) The amount payable under a civil penalty notice for an alleged  
17 contravention of a tier 1 civil penalty provision or tier 2 civil penalty  
18 provision is—
- 19 (a) for an individual—\$15 000 or a lesser amount prescribed by  
20 regulation; and
- 21 (b) for a corporation—\$75 000 or a lesser amount prescribed by  
22 regulation.
- 23 (2) The amount payable under a civil penalty notice for an alleged  
24 contravention of a tier 3 civil penalty provision is—
- 25 (a) for an individual—\$7 510 or a lesser amount prescribed by  
26 regulation; and
- 27 (b) for a corporation—\$37 500 or a lesser amount prescribed by  
28 regulation.



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

- 15 (4) In this section:

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

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

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

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

## 23 **54H Time for payment of amount**

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

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

8       **54I           Effect of payment of amount**

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

1     **54J         Withdrawal of civil penalty notice**

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

11    **54K         Conduct contravening multiple civil penalty provisions**

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

18    **54L         Effect of civil penalty notice on enforcement order**  
19            **proceeding**

- 20            The commission must not start an enforcement order proceeding  
21            against a person in relation to an alleged contravention of a civil  
22            penalty provision if—  
23               (a) it has served a person with a civil penalty notice in relation to  
24               the alleged contravention; and  
25               (b) the time for payment stated in the notice has not ended; and  
26               (c) the notice has not been withdrawn under section 54J.

1     **Division 9A.4            Enforcement orders**

2     **54M            Application for enforcement order**

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

- 1 (g) an order to ensure that the person does not engage in conduct  
2 constituting the contravention, or similar or related conduct, for  
3 up to 3 years, including—
- 4 (i) an order that the person set up a compliance or education  
5 and training program for employees or other people  
6 involved in the person's business, that is designed to  
7 ensure their awareness of the responsibilities and  
8 obligations in relation to the conduct; or
- 9 (ii) an order that the person revise the internal operations of  
10 their business that led to the contravention;
- 11 (h) an order that the person—
- 12 (i) disclose stated information to which the person has access  
13 in a stated way to stated people; and
- 14 (ii) publish an advertisement in a stated way and in terms  
15 stated in, or determined in accordance with, the order;
- 16 (i) an order prescribed by regulation.
- 17 (4) A civil penalty payable under subsection (3) (a) is a debt payable to  
18 the Territory.
- 19 *Note* An amount owing under a law may be recovered as a debt in a court of  
20 competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).
- 21 (5) An order under subsection (3) (f) is not enforceable against the person  
22 engaged to perform the service.

23 **54N Deciding civil penalty for enforcement order**

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

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

12       **54O       Enforcement order proceeding is civil proceeding**

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

14       **54P       Proceedings may be heard together**

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

17       **54Q       Civil proceeding after criminal proceeding**

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

21       **54R       Criminal proceeding during civil proceeding**

- 22           (1) An enforcement order proceeding is stayed if—
- 23           (a) a criminal proceeding is started or has already been started  
24 against a person alleged to have contravened a civil penalty  
25 provision; and
- 26           (b) the criminal proceeding is for a corresponding offence.

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

7   **54S       Criminal proceeding after civil proceeding**

8           A criminal proceeding may be started against a person for a

9           corresponding offence whether or not an enforcement order has been

10           made against the person for a related contravention of a civil penalty

11           provision.

12   **54T       Evidence given in civil proceeding not admissible in**

13           **criminal proceeding**

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

23   **54U       Conduct contravening multiple civil penalty provisions**

- 24           (1) If a person contravenes 2 or more civil penalty provisions, an
- 25           enforcement order proceeding against the person may be started in
- 26           relation to the contravention of 1 or more of those provisions.
- 27           (2) However, the person is not liable to more than 1 civil penalty in
- 28           relation to the same conduct.

- 1     **54V       Multiple contraventions**
- 2             (1) The court may order that a person pay a single civil penalty for
- 3             multiple contraventions of a civil penalty provision if the
- 4             contraventions—
- 5                 (a) are based on the same facts; or
- 6                 (b) form, or are part of, a series of contraventions of the same or a
- 7                 similar kind.
- 8             (2) However, the single civil penalty must not exceed the sum of the
- 9             maximum penalties that the court may have ordered if separate civil
- 10            penalties were ordered for each of the contraventions.

11     **Division 9A.5       Injunctions**

- 12     **54W       Application for injunction**
- 13             (1) If a person has engaged, is engaging or is proposing to engage, in
- 14             conduct constituting a contravention of a civil penalty provision, the
- 15             court may, on application by the commission, grant an injunction—
- 16                 (a) restraining the person from engaging in the conduct; and
- 17                 (b) if, in the court’s opinion, it is desirable to do so—requiring the
- 18                 person to do a thing.
- 19             (2) The court’s power to grant an injunction restraining a person from
- 20             engaging in conduct may be exercised—
- 21                 (a) whether or not it appears to the court that the person intends to
- 22                 engage again, or to continue to engage, in conduct of that kind;
- 23                 and
- 24                 (b) whether or not the person has previously engaged in conduct of
- 25                 that kind; and



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

4 **54X Discharging or varying injunctions**

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

7 **Division 9A.6 Other provisions about liability**

8 **54Y Meaning of *evidential burden*—div 9A.6**

9 In this division:

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

13 **54Z Ancillary contraventions**

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

22 **54ZA State of mind**

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

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

10   **54ZB     Mistake of fact**

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

1 **54ZC Burden of proof for exceptions etc**

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

5 **54ZD Extended liability of corporations**

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

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

10 **54ZE Limited liability of individuals**

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

13 **5 New section 54ZF**

14 *in part 10, insert*

15 **54ZF Exercise of enforcement functions under Utilities**  
16 **Act 2000**

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

- 1 (3) In this section:  
2 *ICRC inspector*—see the *Utilities Act 2000*, dictionary.

3 **6 New schedule 5**

4 *insert*

5 **Schedule 5 Civil penalty provisions**

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

7 **5.1 Definitions—sch 5**

8 In this schedule:

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

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

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

17 *tier 1 civil penalty*—see section 5.2.

18 *tier 2 civil penalty*—see section 5.2.

19 *tier 3 civil penalty*—see section 5.2.

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

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

3 (1) In this schedule:

4 ***tier 1 civil penalty*** means—

- 5 (a) for an individual—\$553 000; and  
6 (b) for a corporation—the greater of the following:  
7 (i) \$11 060 000;  
8 (ii) if the court can determine the value of the benefit the  
9 corporation, and any related corporation, has obtained  
10 directly or indirectly and that is reasonably attributable to  
11 the contravention—3 times the value of the benefit;  
12 (iii) if the court cannot determine the value of the benefit—  
13 10% of the corporation's adjusted turnover during the  
14 12 months ending at the end of the month the  
15 contravention occurred.

16 ***tier 2 civil penalty*** means—

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

21 ***tier 3 civil penalty*** means—

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

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

5 **5.3 Civil penalty provisions**

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

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

Section 6

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



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

## Section 7

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

- 1 • exercise
- 2 • fail
- 3 • function
- 4 • may (see s 146)
- 5 • must (see s 146)
- 6 • National Electricity (ACT) Law
- 7 • National Electricity (ACT) Regulation
- 8 • National Energy Retail Law (ACT)
- 9 • National Energy Retail Regulation (ACT)
- 10 • National Gas (ACT) Law
- 11 • National Gas (ACT) Regulation
- 12 • person (see s 160)
- 13 • subordinate law (see s 8)
- 14 • territory authority
- 15 • the Territory.

## 8 Dictionary, new definitions

17 *insert*

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

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

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

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

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

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

- 1            ***court***, for part 9A (Enforcement of civil penalty provisions)—see  
2            section 54A.
- 3            ***Electricity Feed-in Code***, for schedule 5 (Civil penalty provisions)—  
4            see schedule 5, section 5.1.
- 5            ***enforcement order***—see section 54M (1).
- 6            ***enforcement order proceeding*** means a proceeding under  
7            division 9A.4 (Enforcement orders).
- 8            ***evidential burden***, in relation to a matter, for division 9A.6 (Other  
9            provisions about liability)—see section 54Y.
- 10           ***related corporation***, of another corporation, means a related body  
11           corporate under the [Corporations Act](#).
- 12           ***tier 1 civil penalty***, for schedule 5 (Civil penalty provisions)—see  
13           schedule 5, section 5.2.
- 14           ***tier 2 civil penalty***, for schedule 5 (Civil penalty provisions)—see  
15           schedule 5, section 5.2.
- 16           ***tier 3 civil penalty***, for schedule 5 (Civil penalty provisions)—see  
17           schedule 5, section 5.2.
- 18           ***Transparency and Comparability Code***, for schedule 5 (Civil penalty  
19           provisions)—see schedule 5, section 5.1.

1 **Schedule 1**      **Other amendments—Utilities**  
2 **Act 2000**

3 (see s 3)

4 **[1.1] Section 21 (1), penalty**

5 *substitute*

6 Maximum penalty:

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

9 **[1.2] Section 47 (1), penalty**

10 *substitute*

11 Maximum penalty:

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

14 **[1.3] Section 75H (1), penalty**

15 *substitute*

16 Maximum penalty:

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

1 **[1.4] Section 75K (1), penalty**

2 *substitute*

3 Maximum penalty:

4 (a) for an individual—50 penalty units; or

5 (b) for a corporation—\$188 000.

6 **[1.5] Section 100 (1) and (3), penalty**

7 *substitute*

8 Maximum penalty:

9 (a) for an individual—50 penalty units; or

10 (b) for a corporation—\$188 000.

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## Endnotes

**1 Presentation speech**

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

**2 Notification**

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

**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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