

Australian Capital Territory

Utilities (Consumer Protection Code) Determination 2010 (No 2)

Disallowable instrument DI2010–178

made under the

Utilities Act 2000, s 59 (Determined codes) and s 63 (Public access)

EXPLANATORY STATEMENT

Purpose of Consumer Protection Code

The Consumer Protection Code is an industry code determined by the Independent Competition and Regulatory Commission (the Commission) under the *Utilities Act 2000*. The Code outlines the basic rights of customers and consumers and utilities with respect to access to, and provision of, utility services. Utilities are obliged to give effect to these rights primarily through customer contracts. The Code also deals with the general conduct of utilities (and their agents) in the delivery of utility services.

The Code applies to all utilities licensed under the Utilities Act to provide utility services to customers and consumers.

The Code is enforceable under the Utilities Act. The Commission is responsible for monitoring the compliance of utilities with this and other industry codes.

Legislative provisions — industry codes

The Utilities Act provides a regulatory framework for utilities in the ACT. Section 21 of the Act provides that a person must not provide a utility service except in accordance with a licence. Licences are subject to a number of conditions with which utilities are required to comply. For example, section 25 of the Act requires all licensees to comply with any relevant industry or technical codes.

Provisions relating to industry codes are set out in Part 4 of the Utilities Act. An industry code ‘may set out practices, standards and other matters about the provision of a utility service’.

Section 59 of the Utilities Act provides for industry codes to be determined by the Commission. The Commission may determine an industry code if it has consulted with the Minister and the Minister responsible for technical regulation and is satisfied that the code is not inconsistent in material respects with another industry code or a technical code; and it is necessary or convenient to determine the code.

Section 60 of the Utilities Act sets out the public consultation requirements for industry codes to be followed unless the Commission satisfied that “the variation is unlikely to adversely affect anyone and would not materially alter the code”.

Under section 62 of the Utilities Act, an industry code determined under section 59 of the Act is a disallowable instrument.

Section 63 of the Utilities Act sets out a number of requirements relating to public access to industry codes.

Revocation and remaking of Code

This Disallowable Instrument revokes the Code determined by the Commission under the Utilities (Consumer Protection Code) (Industry Code) Determination 2010, DI2010-108, as notified on 21 June 2010 and determines a new Code as set out in the Attachment to the Disallowable Instrument.

The variations between the Code as determined under DI2010-108 and the new Code are set out below. This revocation and remaking process ensures that an authorised version of the Code is available through the Legislation Register.

Outline of variations to Code

The variations to the Code incorporated into the new Code correct minor typographical and formatting errors that appeared in the Code as determined under DI2010-108:

- a reference to April 2010 in the side border of the cover page which was inconsistent with the correct reference to July 2010 elsewhere on the cover page and in the remainder of the document
- a missing header (page i)
- updated page numbers for Part 6.1 of the Code in the Table of Contents (page vi)
- a missing space between words in subclause 30.3 (page 34)
- inconsistent spacing between subclauses of clauses 31 and 32A (pages 35 and 36).

There is no variation to any substantive provision of the Code as determined under DI2010-108.

Consultation on variations to Code

The present variations are confined to correction of typographical and formatting errors in the Code as determined under DI2010-108. That Code is altered in no other way. It was the subject of consultation with the Minister and the Minister responsible for technical regulation in accordance with section 59 of the Utilities Act. It was not subject to a full public consultation process in the terms of section 60 of the Utilities Act as the Commission was satisfied that the variations set out in that Code were unlikely to adversely affect anyone and would not materially alter the Code.

Public access to the Code

Copies of the Code are available for inspection during ordinary office hours from the Commission, Level 2, 12 Moore Street, Canberra City ACT 2601. They are also available on the Commission's website at www.icrc.act.gov.au. Electronic copies are available on request. No charge will apply.