

2014

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**CONSTRUCTION AND ENERGY EFFICIENCY LEGISLATION AMENDMENT
BILL 2014**

**SUPPLEMENTARY
EXPLANATORY STATEMENT**

**Presented by
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CONSTRUCTION OCCUPATIONS AND ENERGY EFFICIENCY LEGISLATION AMENDMENT BILL 2014

Overview

The Construction and Energy Efficiency Legislation Amendment Bill 2014 (the Bill) amends a number of laws administered by the Environment and Sustainable Development Directorate.

This supplementary explanatory statement provides information on amendments proposed by the Minister for the Environment and Sustainable Development.

Additional information

The Construction and Energy Efficiency Legislation Amendment Bill (No 2) was notified on 5 March 2014. It contained a number of amendments to the *Electricity Safety Act 1971* and the *Energy Efficiency (Cost of Living) Improvement Act 2012* (EE Act).

These amendments affect a small number of provisions in the Bill so that it is necessary to make minor and technical amendments.

In addition, some clarifications to the proposed provisions in the EE Act are required. These amendments do not alter the intent of the affected provisions or the policy underpinning the related amendment in the Bill.

Further information on the policy and amendments in the Bill can be found in the revised Explanatory Statement for the Bill.

Human Rights Implications

There are no human rights implications associated with these amendments. Human rights implications of provisions in the Bill are addressed in the Explanatory Statement for the Bill.

Clause Notes

Clause 1 Regulation-making power, Section 66 (2)

This is technical amendment to clause 37 of the Bill that changes this provision from a new section 66 (2) to a replacement section 66 (2) in response to the relocation of the current energy efficiency regulation-making power to section 66 in the *Construction and Energy Efficiency Legislation Amendment Act 2013 (No 2)*. There are no changes to the text of the provision.

Clause 2 Clause 42, Proposed new section 14 (4)

This is a minor amendment to new section (4) as proposed by the Bill. It clarifies that this clause applies to activities that were started in the new compliance period and does not apply to activities started in a previous compliance period under the relevant compliance plan for that year.

For further information see the section *Undertaking activities before lodging a compliance plan* related clause notes in the Explanatory Statement for the Bill.

Clause 3 Proposed new clause 42A

Achieving priority household obligations, New Section 16 (3)

This amendment proposes a new clause 42A, which provides that for the purposes of calculating a priority household obligation an eligible activity is taken not to have been undertaken in accordance with a code of practice if it is undertaken before a compliance plan for the compliance period in which the activity is commenced is given under section 17.

This aligns the provisions for energy savings obligations in clause 42 of the Bill. This is important as a tier 1 retailer must meet both obligations. The obligations are calculated separately and subject to separate penalties.

For further information see the section *Undertaking activities before lodging a compliance plan* and related clause notes in the Explanatory Statement for the Bill.

Clause 4 Proposed new clause 44A

Compliance with energy savings obligations—tier 2 retailer energy savings result and contribution, New section 20A (3A) and (3B)

This clause clarifies that the Administrator is able to exclude an abatement factor from a tier 2 retailer's energy savings result if the Administrator is not satisfied that the activity complies with a relevant approved code of practice. The Administrator may also substitute data that the he or she believes on reasonable grounds is correct.

This is important as reported data may be incorrect and the Administrator is responsible for ensuring compliance with the Act, including that any eligible activity for which abatement is claimed is undertaken in accordance with a code of practice.

New clause 44A is required to apply the power equally across all relevant sections. Section 20A is a new section that applies to tier 2 retailers electing to pay an energy savings contribution. It was inserted by the *Construction and Energy Efficiency Legislation Amendment Bill 2013 (No 2)*, which came into effect on 6 March 2014.

For further information see the section *Activities not undertaken in accordance with a code of practice* and related clause notes in the Explanatory Statement for the Bill.

Clause 5 Clause 45, Proposed new section 20D (1)

This amendment is required to incorporate section 20A, which is a new section that applies to tier 2 retailers electing to pay an energy savings contribution. Section 20A was inserted by the *Construction and Energy Efficiency Legislation Amendment Bill 2013 (No 2)*, which came into effect on 6 March 2014. Decisions on energy savings results are made under either section 20 or section 20A.

For an explanation of the policy see the section *Revisions of energy savings results* and related clause notes in the Explanatory Statement for the Bill.

Clause 6 Clause 45, Proposed new section 20D (2)

This amendment is required to incorporate section 20A, which is a new section that applies to tier 2 retailers electing to pay an energy savings contribution. Section 20A was inserted by the *Construction and Energy Efficiency Legislation Amendment Bill 2013 (No 2)*, which came into effect on 6 March 2014. Decisions on energy savings results are made under either section 20 or section 20A.

For an explanation of the policy see the section *Revisions of energy savings results* and related clause notes in the Explanatory Statement for the Bill.

Clause 7 Clause 45, Proposed new section 20D (3)

This clause amends proposed new section 20D (3) to incorporate 20A (Compliance with energy savings obligations—tier 2 retailer energy savings result and contribution) and delineate the requirements for decision-making under each section. Decisions on energy savings results are made under either section 20 or section 20A.

Section 20A was inserted by the *Construction and Energy Efficiency Legislation Amendment Bill 2013 (No 2)*, which came into effect on 6 March 2014.

It also clarifies that section 22, which allows for penalties based on whether an energy savings obligation or priority household obligation is met, applies to a recalculation.

For an explanation of the policy see the section *Revisions of energy savings results* and related clause notes in the Explanatory Statement for the Bill.

Clause 8 Proposed new clause 46A

New section 21A

This clause inserts a new clause 46A, which effectively splits the provisions in clause 45 of the Bill into two sections – one applying to energy savings results and one applying to priority household results. This is consistent with the policy in the Bill.

For an explanation of the policy see the section *Revisions of energy savings results* and related clause notes in the Explanatory Statement for the Bill.

Clause 9 Proposed new section 49C (4) (b)

This clause amends clause 49 in the Bill. It clarifies that the Administrator is not prevented from issuing a rectification order only because an energy savings result or priority household result has been calculated that may relate to the activity or contravention. The priority household result is a percentage of the energy savings result, however two are calculated separately. The wording of clause proposed section 49C (4) (b) did not specifically mention a priority household result and so this amendment gives full effect to the intent of the provision.

For an explanation of the policy see the section *Rectification orders* and clause notes for clause 45 in the Explanatory Statement for the Bill.

Clause 10 Clause 50, Proposed new schedule 1

This is a technical amendment and replaces the schedule of reviewable decisions to include new decisions in this Bill and the *Construction and Energy Efficiency Legislation Amendment Bill 2013 (No 2)*.