

2021

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

UTILITIES AMENDMENT BILL 2021

**EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004*, s 37)**

Presented by

**Andrew Barr MLA
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UTILITIES AMENDMENT BILL 2021

The Bill is not a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

This explanatory statement relates to the *Utilities Amendment Bill 2021* (the Bill) as presented to the ACT Legislative Assembly.

The statement is to be read in conjunction with the Bill. It is not a complete description but provides information about the intent of the provisions in the Bill.

It has been prepared to assist the reader. It does not form part of the Bill, has not been endorsed by the Assembly and is not to be taken as providing a definitive interpretation of the meaning of a provision.

OVERVIEW OF THE BILL

Background

Regulating the price of electricity has contributed to the ACT having relatively lower prices than other capital cities. However, comparing offers and discounts is still difficult for consumers because of how deals are marketed and the different types of information that is provided.

In its *2020-24 Electricity Price Investigation Report* the Independent Competition and Regulatory Commission (ICRC) recommended that a reference price framework be introduced to improve the comparability and transparency of electricity offers in the ACT. This recommendation is similar to the national Default Market Offer (DMO) scheme which applies in NSW, South East QLD and SA and Victorian Default Offer (VDO) scheme.

The Government committed to implement the ICRC's recommendations in 2021 under the Parliamentary and Governing Agreement (Action A.1(x)) in order to make it simpler for ACT customers to get better energy deals.

Purpose of the Bill

The objective of the Bill is to give effect of the Government's commitment by introducing the required reference price framework, which will provide ACT consumers with a consistent benchmark to compare alternative offers and make informed choices regarding their electricity contract.

The Bill inserts new provisions into the Utilities Act that would:

- a) grant power to the Treasurer and the Minister for Water, Energy and Emissions Reduction to determine the reference price through a notifiable instrument;
- b) require energy retailers to provide information that allows customers to compare different offers, via a reference mechanism; and

- c) introduce a 'Clear Advice Entitlement' to require retailers to notify existing customers if they have a better offer.

An industry code is being developed by the ICRC, which will set out how and when retailers must provide the information to customers. The ICRC will monitor compliance with the code. A maximum of 3000 penalty units applies for each occurrence of non-compliance with an industry code. The value of a penalty unit is currently \$810 for a corporation, equating to a maximum of \$2,430,000.

CONSULTATION ON THE PROPOSED APPROACH

The concept of a reference price framework and main components/parameters for the framework were consulted on as part of the ICRC's 2020-24 electricity price investigation project in 2019-20.

The ICRC is currently undertaking further consultation on the draft industry code which covers the detailed requirements for retailers to implement the new obligations created under the provisions of the Bill.

CONSISTENCY WITH HUMAN RIGHTS

The Bill does not engage, promote or limit human rights under the *Human Rights Act 2004*.

Utilities Amendment Bill 2021

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Utilities Amendment Bill 2021**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly is consistent with the *Human Rights Act 2004*.

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Shane Rattenbury MLA
Attorney-General

CLAUSE NOTES

Clause 1 Name of Act

This clause provides that the name of the Act is the *Utilities Amendment Act 2021*.

Clause 2 Commencement

This clause provides for the commencement of the Act on the day after the Act's notification day.

Clause 3 Legislation amended

This clause provides that the Act amends the *Utilities Act 2000*.

Clause 4 Section 55 (2), note

This clause substitutes a note in relation to section 55(2) to allow the industry code to deal with electricity pricing information for certain customers.

Clause 5 New subdivision 5A.2.1A

This clause inserts new subdivision 5A.2.1A that introduces the reference price framework in the ACT.

Section 75GA of this new subdivision 5A.2.1A sets out the obligations on retailers to compare the annual price of their offers with reference price, and to notify their customers if there is a better offer is available. It also supports the making of an industry code that set out the details about how and when retailers are required to give the information to customers.

Section 75B of this new subdivision 5A.2.1A create the power for the Treasurer and the Minister to determine a reference price and annual representation electricity consumption through a notifiable instrument.

Clause 6 Section 75H, heading

This is a consequential amendment to ensure the heading of section 75H more accurately reflects the contents of the section.

Clause 7 New section 75H (1) (c)

This is a consequential amendment to ensure the same offence/enforcement provisions apply if retailers contravene obligations set in new section 75GA.

Clause 8 Section 75I, heading

This is a consequential amendment to ensure the heading of section 75I more accurately reflects the contents of the section.

Clause 9 New section 75I (1) (c)

This is a consequential amendment to ensure the same offence/enforcement provisions apply if retailers contravene obligations set in new section 75GA.

Clause 10 Section 75I (2)

This is a consequential amendment that ensure the same offence/enforcement provisions apply if retailers contravene obligations set in new section 75GA.

Clause 11 Dictionary, note 2

This clause removes four items from note 2 of the Dictionary, as another amendment to the Utilities Act inserts the definition for these items.

Clause 12 Dictionary, new definitions

This clause inserts new definitions for items that removed from note 2.