

Australian Capital Territory

Utilities (Licensing) Exemption 2021 (No 2)

Disallowable instrument DI2021–237

made under the

Utilities Act 2000, s 22 (Exemption)

EXPLANATORY STATEMENT

This explanatory statement relates to the *Utilities (Licensing) Exemption 2021 (No 2)*. It has been prepared to assist the reader of the disallowable instrument. It does not form part of the instrument and has not been endorsed by the Assembly.

This statement must be read in conjunction with the instrument. It is not, and is not meant to be, a comprehensive description of the instrument. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Overview

Section 21 of the *Utilities Act 2000* (the *Act*) provides that a person must not provide a utility service except in accordance with a licence. Section 22 of the Act permits the Minister to exempt a person from the requirement to hold a licence in relation to a utility service. Under section 22 (2), an exemption is subject to compliance with the conditions stated in the instrument of exemption.

This disallowable instrument provides a licensing exemption to Capital Battery Pty Ltd that is intending to operate a 100 MW/2-hour stand-alone battery energy storage system at Rural Block 187 Jerrabomberra (the *Capital Battery*). The Capital Battery will connect into Australia's national electricity grid via the Queanbeyan substation.

Under clause 5 of the exemption, Capital Battery Pty Ltd must comply with the condition to hold an operating certificate under section 46 of the *Utilities (Technical Regulation) Act 2014* (the *UTR Act*) prior to commencing construction of the Capital Battery. It is an offence under section 51 of the UTR Act to construct a regulated utility service without a Design and Construct operating certificate.

Consultation

Consultation was undertaken with the Independent Competition and Regulatory Commission, the Environment Protection Authority and the Office of the Coordinator-General for Climate Action. Feedback received from these stakeholders was incorporated into the instrument.

Regulatory Impact Statement

A regulatory impact statement is not required as this instrument does not impose appreciable costs on the community, or part of the community (see section 34 (1) of the *Legislation Act 2001*). Further, the exemption does not operate to the disadvantage of anyone by adversely affecting their rights or imposing liabilities on the person (see section 36 (1) (b) of the *Legislation Act 2001*).

Human rights and Scrutiny of Committee Terms of Reference

This instrument does not engage or limit any person's human rights.

The instrument is consistent with the Legislative Assembly's Scrutiny of Bills Committee Terms of Reference. In particular, the instrument:

- is made under a ministerial power found in the Act;
- is in accordance with the general objects of the Act under which the instrument is made;
- does not unduly trespass on rights previously established by law; and
- does not make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions.

Outline of the provisions

Section 1 Name of instrument

This section names the instrument as the *Utilities (Licensing) Exemption 2021 (No 2)*.

Section 2 Commencement

This section provides for the commencement of the instrument on the day after it is notified.

Section 3 Approval

This section provides the Minister's exemption from a licence for Capital Battery Pty Ltd in relation to the provision of a utility service to generate 30MW or more of power connected to an electricity network.

Section 4 Purpose

This section provides details of the exemption for Capital Battery Pty Ltd to operate a 100 MW/2-hour stand-alone battery energy storage system at Rural Block 187 Jerrabomberra (the *Capital Battery*). The Capital Battery will connect into Australia's national electricity grid via the Queanbeyan substation.

Section 5 Conditions

This section provides details on conditions associated with the exemption, which is that Capital Battery Pty Ltd must hold an operating certificate under section 46 of the *Utilities (Technical Regulation) Act 2014* prior to commencing construction of the Capital Battery.