

NORTHERN TERRITORY OF AUSTRALIA

ELECTRICITY REFORM (ADMINISTRATION) REGULATIONS

As in force at 29 March 2004

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 29 March 2004

ELECTRICITY REFORM (ADMINISTRATION) REGULATIONS

Regulations under the *Electricity Reform Act*

Part 1 Preliminary

1 Citation

These Regulations may be cited as the *Electricity Reform (Administration) Regulations*.

2 Definitions

In these Regulations, unless the contrary intention appears:

consumption, for a site during a consumption period, means the electricity, decided by the relevant entity, that was:

- (a) consumed for the site during the period; or
- (b) charged by an on-supplier for the site during the period.

consumption period means any continuous period of one year beginning on or after 1 July 1998.

estimated consumption, for the site during a future consumption period, means the electricity the relevant entity selling electricity to a non-contestable customer estimates will be:

- (a) consumed for the site during the period; or
- (b) charged by an on-supplier for the site during the period.

future consumption period means any period of one year, whether beginning before, on or after the relevant date of competition as specified in column 1 of the Schedule, that has not ended, but ending no later than 2 years after the date of the relevant application under regulation 7.

on-supplier means a person who:

- (a) is the owner or occupier of premises or has the right to use premises; and
- (b) supplies and sells electricity for use in the premises.

premises include a caravan park, exhibition centre, hostel, hotel, industrial park, lodging house, marina, market arcade, motel, shopping centre and serviced apartments.

receiver means a person who owns, occupies or has the right to use premises and to whom electricity is supplied and sold by an on-supplier for the premises.

relevant entity means the electricity entity licensed to sell electricity to non-contestable customers in the area of a customer's site.

same business or enterprise means a business or enterprise carried out under the same name, other than a business or enterprise made up of parts carried out under different names.

single site has the meaning in regulation 3.

site means premises or a lot of land.

supply point, in relation to electricity supplied to a customer, means the point at which the electricity last leaves the electrical installation of the electricity entity that supplies electricity to the customer before being supplied to the customer (whether or not the electricity passes through facilities owned or operated by any other person after leaving that point and before it is supplied).

3 **Single site**

- (1) In these Regulations, **single site** means:
 - (a) a site to which electricity is supplied by a single supply point; or
 - (b) sites that are to be treated as a single site under subregulation (2).
- (2) If a site or adjoining sites owned or occupied by a customer are supplied by more than one supply point, the customer may elect to have the site or sites treated as a single site.
- (3) Regulation 12 applies to a contestable customer in respect of each site that is to be treated as a single site under subregulation (2).

Part 2 Licences

4 Licence fees and returns

- (1) For the purposes of section 19(2)(a) of the Act, the prescribed date is 1 August in each year of the licence.
- (2) For the purposes of section 19(2)(b) of the Act, the prescribed date is 14 days after the date the annual return is lodged under section 19(2)(a) of the Act.
- (3) For the purposes of section 19(5) of the Act, the prescribed penalty:
 - (a) for failing to lodge an annual return – is \$10,000 and \$500 for each day after the date the annual return was required to be lodged during until the day the annual return is lodged; and
 - (b) for failing to pay an annual licence fee or an instalment of an annual licence fee – is 10% of the amount outstanding calculated daily on a cumulated basis from the date the fee was required to be paid under section 19 of the Act until the date the fee is paid.

5 Licence conditions – licence authorising selling of electricity

For the purposes of section 28(1)(h) of the Act, the period is 2 years from the date the customer becomes a contestable customer.

Part 3 Contestable customers

6 Classification of customers as contestable customers

- (1) Subject to this regulation, a contestable customer is a customer whose annual consumption level for a single site has by the date specified in column 1 of the Schedule reached the minimum consumption level specified opposite in column 2.
- (2) For the purposes of subregulation (1), a customer's annual consumption level is measured by:
 - (a) the customer's actual total consumption at a single site during any consumption period; or
 - (b) the customer's estimated consumption during a future consumption period at a single site if the customer either:
 - (i) did not consume electricity at the site before 1 July 1998; or

- (ii) the customer's business premises at the site was expanded after 1 July 1998 and the expansion causes the estimated consumption to exceed the minimum consumption level.
- (3) An electricity entity that is a customer is a contestable customer regardless of its annual consumption level.
- (4) From 1 April 2010 all customers are contestable customers.

7 Applying for contestable customer certificate

- (1) A customer may apply to the relevant entity for a contestable customer certificate for a single site of the customer with effect from the relevant date for introduction of competition as specified in column 1 of the Schedule.
- (2) The application cannot be made earlier than 90 days before the relevant date for introduction of competition as specified in column 1 of the Schedule.
- (3) The application is to:
 - (a) be in writing;
 - (b) state the applicant's name and the site or sites to which the application relates; and
 - (c) be supported by enough other information, reasonably decided by the relevant entity, to enable the entity to consider the application.

8 Consideration of application

- (1) The relevant entity must either issue or refuse to issue the contestable customer certificate within 14 days after receiving all necessary information relevant to the application.
- (2) The relevant entity must issue the contestable customer certificate if satisfied that the customer is a contestable customer as determined by regulation 6 with respect to the site or sites.
- (3) If the relevant entity does not issue a contestable customer certificate within the relevant period, it is to be taken to have refused to issue the certificate.

- (4) In subregulation (3), **relevant period** means the first of the following periods to end:
- (a) one month after the relevant entity receives all necessary information relevant to the application;
 - (b) 3 months after the application was made.

9 Contestable customer certificate

A contestable customer certificate is to be in writing and state:

- (a) the customer's name;
- (b) the site or sites of the customer to which the certification relates; and
- (c) that the relevant entity was satisfied that the customer was a contestable customer as determined by regulation 6.

10 Refusal to issue contestable customer certificate

- (1) If the relevant entity refuses to issue a contestable customer certificate, the entity must give the customer written notice as soon as practicable after making the decision.
- (2) The notice must state:
 - (a) the reasons for not issuing the contestable customer certificate; and
 - (b) that the customer may ask the Utilities Commission to decide whether the contestable customer certificate should have been issued.

11 Dispute resolution

- (1) This regulation applies if a dispute arises if a customer's contestable customer certificate is not issued or if the relevant entity is taken to have refused to issue the certificate.
- (2) The customer may ask the Utilities Commission to resolve the dispute.
- (3) The Utilities Commission may:
 - (a) give instructions about procedures the parties to the dispute must follow to attempt to resolve the dispute before the Utilities Commission attempts to resolve it; or

- (b) require a party to give the Utilities Commission information the Utilities Commission considers necessary to enable the dispute to be resolved.
- (4) The Utilities Commission must give each party a reasonable opportunity to make representations before making a decision on the dispute.
- (5) After considering any representations, the Utilities Commission must decide whether the customer should be issued a contestable customer certificate.
- (6) The Utilities Commission must inform the parties of the decision by written notice stating:
 - (a) the decision; and
 - (b) the reasons for the decision.
- (7) If the Utilities Commission decides that a contestable customer certificate should have been issued, the certificate is taken to have been issued to the customer for the site to which the application relates when the decision was made.

12 Classification continues despite consumption or use

If a customer is a contestable customer for a site and has a contestable customer certificate in relation to the site, the certificate continues despite:

- (a) the actual consumption of electricity for the site; or
- (b) the purpose for which the site is used.

13 Partial contracting prohibited

A contestable customer cannot have electricity supplied to a single site by more than one relevant entity.

Penalty: \$5,000.

Part 4A Electricity pricing orders

13A Prescribed class of customers

For section 44(1)(a) of the Act, the following customers are customers of a prescribed class:

- (a) customers who became contestable customers on 1 April 2002 in accordance with regulation 6;

- (b) customers who became contestable customers after 1 April 2002 and before 1 April 2004 and whose annual consumption level measured in accordance with regulation 6 when they became contestable customers was 750 megawatt hours per annum or greater but less than 2 gigawatt hours per annum;
- (c) customers who become contestable customers after 31 March 2004 and whose annual consumption level measured in accordance with regulation 6 when they become contestable customers is 750 megawatt hours per annum or greater but less than 2 gigawatt hours per annum.

Part 4 On-suppliers

14 Exemptions for on-suppliers

- (1) An on-supplier is exempted from sections 14(1) and 28 of the Act.
- (2) The exemption under subregulation (1) is subject to the condition that the on-supplier complies with regulation 15(2) and (3).

15 Charges from on-suppliers to receivers

- (1) An on-supplier may charge a receiver for electricity supplied or sold to the receiver by the on-supplier in a way decided by the on-supplier.
- (2) However, if the on-supplier decides to charge a receiver on the basis of the receiver's electricity consumption measured by a meter, the amount the on-supplier charges the receiver must not exceed the amount the receiver would have paid at the lowest appropriate tariff for the receiver's electricity usage if the receiver had been a non-contestable customer of the electricity entity in whose area the receiver's premises are located for the electricity.
- (3) Also, if the on-supplier is charging several receivers for electricity supplied by the on-supplier on premises on the basis of metered consumption, the amount each receiver is charged must be calculated in the same way.

Part 5 Vegetation clearance

16 Definition

In this Part, **electricity entity** means an electricity entity referred to in section 64(1) of the Act.

17 Procedure for consulting occupier

For the purposes of section 64(2) of the Act, written notice under that subsection must be served on the occupier at least 30 days before the day it is proposed to enter the place and is to state:

- (a) the reason and the date and time of the proposed entry;
- (b) the nature of the work to be carried out in clearing vegetation from the place;
- (c) the arrangements to make good any damage caused or the terms of any compensation to be paid for damage caused; and
- (d) that the person has a right to object to the electricity entity and to the Ombudsman appointed under the *Ombudsman (Northern Territory) Act*, the time limits and other requirements for making an objection.

18 Objection relating to notice of intention to enter for vegetation clearance

- (1) An occupier of a place on whom a notice under section 64(2) of the Act is served may lodge an objection with the electricity entity within 21 days after receiving the notice.
- (2) The objection must be in writing and state fully and in detail the grounds on which the objection relies.

19 Objection to arrangements to make good damage or pay compensation

- (1) If an occupier of a place has allowed access to the place for the purposes of vegetation being cleared under section 64 of the Act and damage is caused to the place in clearing the vegetation, if the occupier considers that the damage has not been made good or that reasonable compensation has not been paid, the occupier may lodge an objection with the electricity entity within 21 days after the damage was caused.
- (2) The objection must be in writing and state fully and in detail the grounds on which the objection relies.

20 Consideration of objection

- (1) The electricity entity must consider an objection lodged under regulation 19 and must either allow the objection in whole or in part or disallow the objection.

- (2) The decision must be made with 30 days of receiving the objection and notice of the decision must be served on the objector.
- (3) If after making the decision, the electricity entity still wishes to enter the place it must give to the occupier of the place a revised notice under section 64(2) of the Act.
- (4) A notice referred to in subregulation (3) must contain the information required under regulation 17.
- (5) An objection cannot be made under regulation 18 to a notice referred to in subregulation (3).
- (6) The decision of an electricity entity to disallow an objection in whole or in part must be in writing, contain reasons for the decision and inform the objector of his or her right to lodge a complaint against the decision under the *Ombudsman (Northern Territory) Act*.

21 No effect on alternate right of complaint

Nothing in this Part prevents a contestable customer lodging a complaint under Division 8 of Part 3 of the Act.

Schedule

regulation 6

| Column 1 | Column 2 |
|--------------------------------------|------------------------------|
| Date for introduction of competition | Minimum consumption level |
| 1 April 2000 | 4 gigawatt hours per annum |
| 1 October 2000 | 3 gigawatt hours per annum |
| 1 April 2001 | 2 gigawatt hours per annum |
| 1 April 2002 | 750 megawatt hours per annum |
| 1 April 2008 | 160 megawatt hours per annum |

ENDNOTES
1**KEY**

Key to abbreviations

| | |
|------------------------------|-------------------------------------|
| amd = amended | od = order |
| app = appendix | om = omitted |
| bl = by-law | pt = Part |
| ch = Chapter | r = regulation/rule |
| cl = clause | rem = remainder |
| div = Division | renum = renumbered |
| exp = expires/expired | rep = repealed |
| f = forms | s = section |
| Gaz = Gazette | sch = Schedule |
| hdg = heading | sdiv = Subdivision |
| ins = inserted | SL = Subordinate Legislation |
| lt = long title | sub = substituted |
| nc = not commenced | |

2**LIST OF LEGISLATION*****Electricity Reform (Administration) Regulations (SL No. 15, 2000)***

| | |
|-----------|---------------|
| Notified | 31 March 2000 |
| Commenced | 1 April 2000 |

Amendments of Electricity Reform (Administration) Regulations (SL No. 29, 2001)

| | |
|-----------|-------------|
| Notified | 4 June 2001 |
| Commenced | 4 June 2001 |

Amendments of Electricity Reform (Administration) Regulations (SL No. 9, 2003)

| | |
|-----------|------------------|
| Notified | 28 February 2003 |
| Commenced | 28 February 2003 |

Amendment of Electricity Reform (Administration) Regulations (SL No. 7, 2004)

| | |
|-----------|---------------|
| Notified | 29 March 2004 |
| Commenced | 29 March 2004 |

3**LIST OF AMENDMENTS**

| | |
|-----------|---|
| r 6 | amd No. 29, 2001, r 1; No. 9, 2003, r 2 |
| pt 4A hdg | ins No. 7, 2004 |
| r 13A | ins No. 7, 2004 |
| sch | amd No. 29, 2001, r 2; No. 9, 2003, r 3 |