

Serial 23

National Electricity (Northern Territory) (National Uniform Legislation)
Amendment Bill 2017

Ms Manison

A Bill for an Act to amend the *National Electricity (Northern Territory) (National
Uniform Legislation) Act*

NORTHERN TERRITORY OF AUSTRALIA

**NATIONAL ELECTRICITY (NORTHERN TERRITORY) (NATIONAL
UNIFORM LEGISLATION) AMENDMENT ACT 2017**

Act No. [] of 2017

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2017

An Act to amend the *National Electricity (Northern Territory) (National Uniform Legislation) Act*

[Assented to [] 2017]
[Second reading [] 2017]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *National Electricity (Northern Territory) (National Uniform Legislation) Amendment Act 2017*.

2 Commencement

This Act commences on 1 July 2017.

3 Act amended

This Act amends the *National Electricity (Northern Territory) (National Uniform Legislation) Act*.

4 Section 3 amended

Section 3(1)

insert (in alphabetical order)

SA Act means the *National Electricity (South Australia) Act 1996* (SA).

5 Section 6 amended

Section 6

omit

National Electricity (South Australia) Act 1996 (SA)

insert

SA Act

6 Section 7 amended

Section 7

omit

National Electricity (South Australia) Act 1996 (SA)

insert

SA Act

7 Section 8 amended

Section 8(1), definition ***the National Electricity Law*** or ***this Law***, paragraph (b)

omit

all words from "indicates" to "(SA)"

insert

or subject matter otherwise indicates or requires – the National Electricity Law set out in the Schedule to the SA Act

8 Section 9 replaced

Section 9

repeal, insert

9 Declaration of local electricity systems

An electricity system listed in Schedule 2, and any augmentation of that system, is declared to be a local electricity system for the purposes of the National Electricity (NT) Law.

9 Section 9A amended

Section 9A(3), definition ***National Electricity Rules***

omit

National Electricity (South Australia) Act 1996 (SA)

insert

SA Act

10 Section 12A amended

Section 12A(2)(b)(i), after "the other instrument"

insert

or decision

11 Section 12B amended

Section 12B(2)

omit

law

insert

provision

12 Section 13 amended

(1) Section 13(2)

omit, insert

(2) The regulations may do any of the following:

- (a) amend Schedule 1, including amending it to provide for matters of a transitional nature to facilitate the transition to the application and operation of the National Electricity (NT) Law;
- (b) prescribe modifications to the regulations in force from time to time under Part 4 of the SA Act for the purposes of section 7(a), including modifications that provide for matters of a transitional nature to facilitate the transition to the application and operation of those regulations;

-
- (c) prescribe modifications to the operation of the National Electricity Rules for the purpose of their having the force of law in this jurisdiction under section 9 of the National Electricity (NT) Law, including modifications that provide for matters of a transitional nature to facilitate the transition to the application and operation of those Rules.

- (2) Section 13(5), definition **National Electricity Rules**

omit

National Electricity (South Australia) Act 1996 (SA)

insert

SA Act

13 Part 4, Division 2 repealed

Part 4, Division 2

repeal

14 Schedule 1 amended

Schedule 1, Parts 2 to 4

omit, insert

Part 2 Continuing modifications

3 Section 2 modified

- (1) Section 2(1), definitions **interconnected national electricity system**, **National Electricity Rules** or **Rules**, **network service provider**, **Registered participant**, **Regulations** and **retailer**

omit

- (2) Section 2(1)

insert (in alphabetical order)

interconnected national electricity system means the interconnected transmission and distribution system in the other participating jurisdictions used to convey and control the conveyance of electricity to which are connected—

- (a) generating systems and other facilities; and

-
- (b) loads settled through the wholesale exchange operated and administered by AEMO in those other participating jurisdictions;

local electricity system means:

- (a) an electricity system declared by the application Act of this jurisdiction to be a local electricity system; and
- (b) the generating systems and other facilities owned, controlled or operated in this jurisdiction connected to that electricity system;

local instrument means a regulation made under the application Act of this jurisdiction;

National Electricity Rules or **Rules** mean each of the following, as modified by the application Act of this jurisdiction or a regulation made under that Act—

- (a) the initial National Electricity Rules; and
- (ab) additional Minister initiated Rules; and
- (b) Rules made by the AEMC under this Law, including Rules that amend or revoke—
 - (i) the initial National Electricity Rules or additional Minister initiated Rules; or
 - (ii) Rules made by it,

or, if the context or subject matter otherwise indicates or requires, the Rules referred to in paragraphs (a), (ab) and (b);

network service provider means a Registered participant who:

- (a) under section 11(3aa) is deemed to be registered for the purposes of section 11(2); and
- (b) owns, controls or operates a transmission system or distribution system that forms part of a local electricity system;

Registered participant means a person who, under Part 3 of the *Electricity Reform Act* of the Northern Territory, holds a licence authorising the carrying on of operations in the electricity supply industry in connection with a local electricity system, other than a person who is prescribed by local instrument not to be a Registered participant in relation to those operations;

Regulations means:

- (a) the regulations made under Part 4 of the *National Electricity (South Australia) Act 1996* of South Australia that apply as a law of this jurisdiction, as modified by the application Act of this jurisdiction or a regulation made under that Act; or
- (b) if the context or subject matter otherwise indicates or requires—the regulations made under Part 4 of the *National Electricity (South Australia) Act 1996* of South Australia;

retailer means a person who, under Part 3 of the *Electricity Reform Act* of the Northern Territory, holds a licence authorising the selling of electricity;

Utilities Commission means the Utilities Commission of the Northern Territory established by section 5 of the *Utilities Commission Act* of the Northern Territory;

- (2A) Section 2(1), definitions **distribution determination**, paragraphs (a) and (b), **distribution reliability standard** and **distribution service standard**

omit

a distribution

insert

a local electricity

- (3) Section 2(1), definition **national electricity market**, paragraph (a)

omit

under this Law and the Rules

insert

in the other participating jurisdictions

- (4) Section 2(1), definition **regulated distribution system operator**

omit

distribution system

insert

local electricity system

4 Section 2EA inserted

After section 2E

insert

2EA—References to Rules made under this Law

A reference in the definition of ***additional Minister initiated Rules***, ***initial National Electricity Rules*** or ***National Electricity Rules*** or ***Rules*** to Rules made under this Law or a provision of this Law—

- (a) includes a reference to Rules made before the day on which Part 2 of the application Act of this jurisdiction commenced; and
- (b) is, in relation to Rules made before that day, a reference to Rules made under, or made under the corresponding provision of, the National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996* of South Australia as applied as a law of South Australia.

4A Section 8 modified

After section 8(2)

insert

- (2a) For the purposes of subsection (2), the MCE must regard the reference in the national electricity objective to the national electricity system as a reference to whichever of the following the MCE considers appropriate in the circumstances—
 - (a) the national electricity system;
 - (b) one or more, or all, of the local electricity systems;
 - (c) all of the electricity systems referred to in paragraphs (a) and (b).

5 Part 2, heading modified

Part 2, heading

omit

National Electricity Market

insert

Northern Territory local electricity systems

6	Section 11 modified
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- (1) Section 11, heading

omit

market

insert

system

- (2) Before section 11(1)

insert

- (1aa) Subsections (3) and (4) have no effect in this jurisdiction.

Note—

The application of subsections (3) and (4) may be revisited as part of the phased implementation of the Rules in this jurisdiction.

- (3) Section 11(1)

omit

the interconnected national electricity system

insert

a local electricity system

- (4) Section 11(1)(a) and (b)

omit, insert

- (a) the person is a Registered participant in relation to that activity and that local electricity system; or

- (b) the person is the subject of a derogation that exempts the person from the requirement to be a Registered participant in relation to that activity and that local electricity system under this Law and the Rules; or

- (ba) the person is prescribed by local instrument not to be a Registered participant in relation to that activity and that local electricity system.

(5) Section 11(2)

omit

the interconnected national electricity system

insert

a local electricity system

(6) Section 11(2)(a) and (b)

omit, insert

(a) the person is a Registered participant in relation to that activity and that local electricity system; or

(b) the person is the subject of a derogation that exempts the person, or is otherwise exempted by the AER, from the requirement to be a Registered participant in relation to that activity and that local electricity system under this Law and the Rules; or

(ba) the person is prescribed by local instrument not to be a Registered participant in relation to that activity and that local electricity system.

(7) After section 11(2)

insert

(3aa) A Registered participant who holds a licence authorising the carrying on of operations that correspond to an activity and a local electricity system mentioned in subsection (1) or (2) is deemed to be a Registered participant in relation to that activity and that local electricity system for the purposes of that subsection or those subsections, as the case requires.

7 Section 12 modified

Before section 12(1)

insert

(1aa) This section has no effect in this jurisdiction.

Note—

The application of section 12 may be revisited as part of the phased implementation of the Rules in this jurisdiction.

7A Section 13 modified

Before section 13(1)

insert

(1aa) This section has no effect in this jurisdiction.

Note—

The application of section 13 may be revisited as part of the phased implementation of the Rules in this jurisdiction.

7B Section 14 modified

Before section 14(1)

insert

(1aa) This section has no effect in this jurisdiction.

Note—

The application of section 14 may be revisited as part of the phased implementation of the Rules in this jurisdiction.

8 Section 15 modified

Section 15(1)(e)

omit

the interconnected transmission and distribution

insert

a local electricity

9 Section 16 modified

After section 16(1)

insert

(1a) For the purposes of subsection (1)(a) and (d), the AER must regard the reference in the national electricity objective to the national electricity system as a reference to a local electricity system or to all local electricity systems, as the case requires.

9A Section 32A inserted

After section 32

insert

32A—Manner in which AEMC has regard to national electricity objective

Subject to section 88(2a), for the purposes of this Law, the AEMC must regard the reference in the national electricity objective to the national electricity system as a reference to whichever of the following the AEMC considers appropriate in the circumstances—

- (a) the national electricity system;
- (b) one or more, or all, of the local electricity systems;
- (c) all of the electricity systems referred to in paragraphs (a) and (b).

9B Section 34 modified

- (1) Section 34(1)(a)(iii)

omit, insert

- (iia) the operation of a local electricity system for the purposes of the safety, security and reliability of that system;
- (iii) the activities of persons (including Registered participants) participating in the national electricity market or involved in the operation of the national electricity system or a local electricity system;

- (2) After section 34(3)(b)

insert

(ba) vary in their terms as between—

- (i) the national electricity system; and
 - (ii) one or more, or all, of the local electricity systems;
- (bb) have no effect with respect to one or more of the systems referred to in paragraph (ba);

9C Section 46 modified

(1) Section 46

omit

The

insert

(1) Subject to subsection (2), the

(2) Section 46, at the end

insert

(2) The AEMC must update the copies of the National Electricity Rules published and made available under subsection (1) to reflect each rule modification provided for by a modification instrument—

(a) if notified of the making of the modification instrument at least 10 business days before the rule modification commences—on the day the rule modification commences; or

(b) otherwise—within 10 business days of being notified of the making of the modification instrument.

(3) In this section—

modification instrument means a regulation made under section 13(2)(c) of the application Act of this jurisdiction, or an amendment to that Act, that provides for a rule modification;

notified means notified by the Minister of this participating jurisdiction;

rule modification means a modification to the operation of the National Electricity Rules for the purpose of their having the force of law in this jurisdiction.

11 Section 49 modified

(1) Before section 49(1)

insert

(1aa) Subsections (1)(a) to (f) and (2), and notes to subsection (1), have no effect in this jurisdiction.

(2) After section 49(3)

insert

- (4) For the purposes of subsection (3), AEMO must regard the reference in the national electricity objective to the national electricity system as a reference to a local electricity system or to all local electricity systems, as the case requires.

11A Section 53AA inserted

After Part 5, Division 5, heading

insert

53AA—Division has no effect

This Division has no effect in this jurisdiction.

11B Section 54C modified

After section 54C(2)(d)

insert

(da) the Utilities Commission;

11C Section 55AA inserted

After Part 5, Division 7, heading

insert

55AA—Division has no effect

This Division has no effect in this jurisdiction.

12 Section 62 modified

Section 62(b), after " AEMO"

insert

in the other participating jurisdictions

12A Section 71A modified

Section 71A, definition **reviewable regulatory decision**, paragraph (a)

omit, insert

- (a) subject to the Regulations, a network revenue or pricing determination that sets a regulatory period; or

13 Section 71P modified

After section 71P(3)

insert

- (4) For the purposes of subsections (2a)(c) and (2b)(c), the Tribunal must regard the reference in the national electricity objective to the national electricity system as a reference to a local electricity system or to all local electricity systems, as the case requires.

14 Section 87 modified

- (1) Section 87, definition **urgent Rule**

omit

- (2) Section 87

insert (in alphabetical order)

differential Rule means a Rule that:

- (a) varies in its terms as between—
- (i) the national electricity system; and
 - (ii) one or more, or all, of the local electricity systems; or
- (b) does not have effect with respect to one or more of those systems,

but is not a jurisdictional derogation, participant derogation or Rule that has effect with respect to an adoptive jurisdiction for the purpose of section 91(8);

uniform Rule means a Rule that:

- (a) does not vary in its terms as between—
- (i) the national electricity system; and

-
- (ii) one or more, or all, of the local electricity systems; and
 - (b) has effect with respect to all of those systems;

urgent Rule means a Rule relating to any matter or thing that, if not made as a matter of urgency, will result in that matter or thing imminently prejudicing or threatening—

- (a) the effective operation or administration of the wholesale exchange operated and administered by AEMO in the other participating jurisdictions; or
- (b) the safety, security or reliability of:
 - (i) the national electricity system; or
 - (ii) a local electricity system.

14A Section 88 modified

After section 88(2)

insert

- (2a) For the purposes of this Part, the AEMC must regard the reference in the national electricity objective to the national electricity system as a reference to whichever of the following the AEMC considers appropriate in the circumstances having regard to the nature, scope or operation of the proposed Rule—
 - (a) the national electricity system;
 - (b) one or more, or all, of the local electricity systems;
 - (c) all of the electricity systems referred to in paragraphs (a) and (b).

14B Section 88AA inserted

After section 88

insert

88AA—AEMC may only make differential Rule in certain cases

- (1) In addition to complying with sections 88, 88A and 88B, the AEMC may only make a Rule if it is satisfied that it is a uniform Rule.
- (2) Despite subsection (1), the AEMC may make a differential Rule if the AEMC is satisfied that, having regard to any relevant MCE statement of policy principles, the differential Rule will, or is likely to,

better contribute to the achievement of the national electricity objective than a uniform Rule.

(3) This section does not apply in relation to—

- (a) a jurisdictional derogation requested under section 91(3); or
- (b) a participant derogation requested under section 91(5) or (6); or
- (c) a Rule that has effect with respect to an adoptive jurisdiction for the purposes of section 91(8).

14C Section 88A modified

Section 88A, after "sections 88"

insert

, 88AA

14D Section 88B modified

Section 88B, after "sections 88"

insert

, 88AA

14E Section 89 modified

Section 89(c)

omit

the national electricity system

insert

a local electricity system

14F Section 91 modified

After section 91(1)

insert

- (1a) A request under subsection (1) may request the AEMC to make a differential Rule.

14G Section 91A modified

- (1) Section 91A, before "The"

insert

- (1)

- (2) Section 91A, at the end

insert

- (2) To avoid doubt, the AEMC may, in accordance with section 88AA, make a more preferable Rule that is a differential Rule, whether or not the market initiated proposed Rule (to which the more preferable Rule relates) proposed the making of a differential Rule.

14H Section 95A inserted

After section 95

insert

95A—Notice to Minister of proposed Rule

- (1) This section applies if—

- (a) the AEMC considers that it should take action under this Division in respect of a request for the making of a Rule; and
- (b) the request included a request that the AEMC make a differential Rule.

- (2) In addition to the requirements of section 95, the AEMC must give the Minister of this participating jurisdiction—

- (a) a copy of the notice published under section 95(1a)(a); and
- (b) a draft of the proposed Rule; and
- (c) any other document prescribed by the Regulations.

14J Section 99 modified

- (1) After section 99(1b)

insert

- (1c) In the case of a proposed Rule that is a differential Rule, the AEMC must also, as soon as practicable after publishing a notice under subsection (1a)(b) or (1b), give the Minister of this participating jurisdiction the draft Rule determination and a copy of the notice.

- (2) After section 99(2)(a)(ii)

insert

- (iia) in the case where the proposed Rule is a differential Rule, the reasons of the AEMC as to whether it is satisfied the proposed Rule will, or is likely to, better contribute to the achievement of the national electricity objective than a uniform Rule; and

14K Section 102 modified

- (1) After section 102(1a)

insert

- (1b) If the Rule to be made is a differential Rule, the AEMC must also, as soon as practicable after publishing a notice under subsection (1a)(b), give the Minister of this participating jurisdiction—

- (a) the final Rule determination; and
(b) a copy of the notice.

- (2) After section 102(2)(a)(ii)

insert

- (iia) in the case where the Rule to be made is a differential Rule, the reasons of the AEMC as to whether it is satisfied the Rule will, or is likely to, better contribute to the achievement of the national electricity objective than a uniform Rule; and

15 Section 109AA inserted

After Part 8, heading

insert

109AA—Part has no effect

This Part has no effect in this jurisdiction.

16 Section 118B modified

After section 118B(2)

insert

- (2a) For the purposes of subsection (2)(a), the Minister must regard the reference in the national electricity objective to the national electricity system as a reference to a local electricity system or to all local electricity systems, as the case requires.

16A Section 122 modified

Before section 122(1)

insert

- (1aa) This section has no effect in this jurisdiction.

16B Section 123AA inserted

After Part 10, Division 1, heading

insert

123AA—Part has no effect

This Part has no effect in this jurisdiction.

Note—

The application of Part 10 may be revisited as part of the phased implementation of the Rules in this jurisdiction.

17 Schedule 1 modified

- (1) Schedule 1, items 4, 7, 9 and 34(a), after "AEMO"

insert

in the other participating jurisdictions

-
- (2) Schedule 1, item 32, after "system,"
insert
or a local electricity system,

18 Schedule 3, Part 1AA inserted

Schedule 3, before Part 1, heading
insert

Part 1AA Parts 1 to 12 have no effect

1AA Parts 1 to 12 have no effect

Parts 1 to 12 of this Schedule have no effect in this jurisdiction.

Part 3 Modifications expiring on 1 July 2019

20 Part 2, Division 1AA inserted

After Part 2, heading
insert

Division 1AA—Part deferred until 1 July 2019

11AA Part deferred until 1 July 2019

This Part has no effect in this jurisdiction until 1 July 2019.

Note—

The application of Part 2 may be revisited as part of the phased implementation of the Rules in this jurisdiction.

21 Section 15 modified

After section 15(3)
insert

- (4) Further, the AER cannot make a network revenue or pricing determination that applies to electricity network services provided in this jurisdiction for a regulatory control period (as defined in the Rules) that begins before 1 July 2019.

22 Part 8A, Division 1AA inserted

After Part 8A, heading

insert

Division 1AA—Part deferred until 1 July 2019**118AA Part deferred until 1 July 2019**

This Part has no effect in this jurisdiction until 1 July 2019.

**Part 4 Modifications expiring on application of
National Energy Retail Law****26 Section 2D modified**

(1) Section 2D(1)(b)(ia)

omit

(2) Section 2D(2)(b)

omit

, the National Energy Retail Law or the National Energy Retail Rules

(3) Section 2D, note 2

omit

27 Section 6A modified

Before section 6A(1)

insert

(1aa) This section has no effect in this jurisdiction until the National Energy Retail Law is applied as a law of this jurisdiction.

27A Section 10A modified

Before section 10A(1)

insert

(1aa) This section has no effect in this jurisdiction until the National Energy Retail Law is applied as a law of this jurisdiction.

28 Section 28V modified

Section 28V(4A)

omit

29 Section 28ZD modified

(1) Section 28ZD(b)

omit

Rules; or

insert

Rules.

(2) Section 28ZD(c)

omit

30 Section 28ZH modified

(1) Section 28ZH(1)(c) and (d)

omit

(2) Section 28ZH, note

omit

and section 219 of the National Energy Retail Law

31 Section 28ZI modified

(1) Section 28ZI(1)(b)

omit

Rules;

insert

Rules.

(2) Section 28ZI(1)(c) and (d)

omit

-
- (3) Section 28ZI, note
omit
and section 220 of the National Energy Retail Law

32 Section 54C modified

Section 54C(2)(f)
omit

33 Section 120 modified

Section 120(2A)
omit

15 Schedule 2 amended

- (1) Schedule 2, heading
omit
distribution
insert
electricity
- (2) Schedule 2, items 1 to 4, heading
omit
distribution
insert
electricity
- (3) Schedule 2, items 1 to 4
omit
distribution system:
insert
electricity system (being the apparatus, electric lines, equipment, plant and buildings used to convey or control the conveyance of electricity):

16 Expiry of Act

This Act expires on the day after it commences.