

Explanatory Statement

ELECTRICITY LEGISLATION AMENDMENT (MARKET REFORM) BILL 2025

SERIAL NO. 36

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

MINISTER FOR MINING AND ENERGY

GENERAL OUTLINE

The purpose of this Bill is to amend the *Electricity Reform Act 2000* to establish new electricity market and governance arrangements for the Territory's major electricity systems.

A central part of the new governance structure is the establishment of the Northern Territory Electricity System and Market Operation (NTESMO) as a statutory corporation, separating these functions from the Power and Water Corporation. The NTESMO Bill is being progressed concurrently as the ER Act amendments will set up the overarching framework for NTESMO's role in relation to system control over power systems and the wholesale electricity market as well as its new planning and procurement functions, under the Regulated Electricity System and Investment Plan (RESIP) processes.

The objects of the ER Act will be expanded to authorise central planning and procurement, which will facilitate the implementation of the market arrangements, and the ER Act will establish the overarching powers and functions for the new arrangements, with detailed requirements to be set out in subordinate instruments.

Subordinate instruments will include the Territory Electricity Market (TEM) Rules, to be made by the Minister for Energy, which will be established to outline the framework for system control, market operation, procurement, planning and associated administrative processes. The TEM Rules will provide a single set of rules by absorbing and expanding on the existing instruments that govern electricity system and market operation, which will provide greater clarity and transparency to electricity supply industry participants.

The TEM Rules will replace the existing System Control Technical Code and, as the TEM Rules are developed, will require amendments to the Network Technical Code and the Northern Territory National Electricity Rules to ensure that each instrument is aligned and does not overlap in its requirements.

Regulations made under the *Electricity Reform Act 2000* will identify the power systems that are to be regulated electricity systems, which will be subject to the system control and market operation of NTESMO and the planning and procurement processes. Other power systems, not identified as regulated electricity systems, can also be included in the regulations to identify NTESMO as the system controller for that power system and system control requirements will be set out in the TEM Rules.

The ER Act will establish the framework for the development of periodic RESIPs, which will identify the electricity supply industry investments required in each Regulated Electricity System. RESIPs will be developed by NTESMO and be overseen by a Planning and Investment Review Panel (PAIR Panel). The PAIR Panel will be convened as required to oversee the centralised planning and procurement undertaken by NTESMO to ensure that technical, economic and policy objectives are appropriately balanced in the investment

pathway presented to the Minister for approval, and that the electricity infrastructure and services contracted during procurement provide the greatest value proposition to Territorians.

Necessary changes to support the new RESIP framework include:

- modification of the Utilities Commission's role in relation to power system planning functions that will be superseded by the RESIP;
- introduction of a mechanism to manage access to the regulated electricity systems to ensure that the optimal investment path identified through the RESIP processes are achieved;
- modifications to support interactions with the National Competition Law and the National Electricity Law; and
- the power to make regulations that identify power systems as regulated electricity systems that will be subject to the system control and market operation of NTESMO and the planning and procurement processes.

A range of administrative and supporting amendments are also required including:

- amending licencing arrangements to establish a market operator licence and require the Utilities Commission to issue NTESMO with a licence for its system control and market operator functions; and
- setting out transitional arrangements for existing technical codes that will be impacted by the TEM Rules.

Northern Territory Electricity System and Market Operator

New electricity market and governance arrangements under the *Electricity Reform Act 2000* will support NTESMO taking up the system controller and market operator functions as well as new central planning and procurement functions.

NTESMO's functions will primarily be regulated under the ER Act. The ER Act amendments will set up the overarching framework for NTESMO's role in relation to electricity system control and market operations for the Regulated Electricity Systems and its new planning and procurement functions, under the RESIP processes.

NTESMO will continue to recover its costs of operation, including its new planning and procurement functions, from market participants through charges regulated by the NT Utilities Commission under the ER Act.

Commencement Timeline

Modifications to the ER Act are proposed to be implemented in stages to provide appropriate time for electricity entities to transition to the new framework and establish supporting arrangements.

Stage 1 amendments to the ER Act will authorise the creation of the TEM Rules and the making of supporting regulations.

Stage 2 of the ER Act amendments will commence concurrently with the commencement of the NTESMO Act and will authorise NTESMO's take over existing system control and market operator functions and powers from PWC.

Stage 3 will commence concurrently with commencement of the TEM Rules and will support:

- NTESMO taking up its new functions relation to planning and procurement; and
- Implementation and operation of the TEM Rules, the RESIP and central procurement processes.

NOTES ON CLAUSES

Clause 1. Short Title.

This is a formal clause which provides for the citation of the Bill. The Bill when passed will be cited as the Electricity Legislation Amendment (Market Reform) Act 2025.

Clause 2. Commencement.

This clause sets out how the amendment Act will commence. In this case this will be done by notice given by the Administrator in the Northern Territory Government Gazette. If a provision in the Act does not commence before 1 November 2027, it commences on that day.

Clause 3. Act Amended

This clarifies that Part 2 of the Bill amends the *Electricity Reform Act 2000 (ER Act)*. Part 2 contains the stage 1 amendments.

Clause 4. Section 3 amended (Objects)

This clause adds two additional objects to the ER Act to allow for new planning and procurement functions.

Clause 5. Section 4 amended (Interpretation)

This clause amends the Interpretation section of the ER Act by:

- removing the definition for system controller, which will be replaced by a new definition; and
- amending the definition of a Retailer of Last Resort (ROLR) transfer event to include a reference to the TEM Rules.

This clause also inserts new definitions for:

- Authorised rule-making entity: the Minister or a body authorised by the Regulations. This definition is in relation to making or amending the TEM Rules under Part 3 Division 3A Territory Electricity Market (TEM) Rules.
 - o The Minister will be the only authorised rule-making entity identified in the ER Act.
- NTESMO: means the Northern Territory Electricity System and Market Operator established under the Electricity System and Market Operator Act 2025, which is to be made in parallel to this Bill

- This new section sets out the functions and governance arrangements of the Planning and Investment Review Panel.
- regulated electricity system: a power system prescribed by the regulations to be a regulated electricity system under this Act.
 - The Minister may only recommend that a power system is prescribed as a regulated electricity system after taking reasonable steps to consult with electricity entities engaged in the operation of the power system.
- system controller: a system controller for a regulated electricity system is NTESMO but for any other power station it is the person licenced under Part 3 to exercise system control over the power system.
- TEM Rules - see Part 3, Division 3A. This refers to the new section that sets of the scope and powers of the TEM Rules.
- Vary: in relation to the TEM Rules, includes to revoke and substitute the TEM Rules

Clause 6. Section 6 amended (Functions of Utilities Commission)

This clause amends section 6 to allow the TEM Rules to confer functions on the Utilities Commission.

Clause 7. Section 37K amended (Sections repealed)

Section 37K is a sunset clause that repeals sections that provide for the Minister to make and amend the Network Technical Code and System Control Technical Code five years after the commencement of the Division. This clause removes "five years after the commencement of this Division" from Section 37K and replaces it with "on the designated day". A definition of designated day is added to mean 19 November 2026, which is five years after the commencement of the Division, or a later date prescribed by the regulations, as long as the later date is prescribed before 19 November 2026.

Clause 8. Part 3, Division 3A inserted

This clause creates new Part 3 Divisions 3A which relates to the arrangements of the Territory Electricity Market Rules (TEM Rules).

40A Rule making power

This clause establishes the TEM Rules, setting out their remit and powers. The TEM Rules may be made by an authorised entity, which is defined in clause 5, as the Minister or a body authorised by the regulations.

The TEM Rules may provide for:

- system control of a regulated power system and allow for a power system prescribed by the regulations to be governed by the TEM Rules;
- the establishment, governance and operation of a wholesale electricity market;

- rules governing participation in a wholesale electricity market established by the TEM Rules;
- the regulation of the wholesale purchase and supply of electricity in relation to a regulated electricity system;
- provide for and govern access to a regulated electricity system (including to limit or restrict access to a regulated electricity system and impose conditions on access);
- provide for the co-ordinated planning, authorisation and implementation of electricity projects, which may require approval under the TEM Rules;
- any other matter or thing contemplated by the ER Act as being dealt with under the TEM Rules; prescribed by the regulations or necessary or convenient for the facilitation, development, regulation, use or operation of a wholesale electricity market, power systems, or any other electricity infrastructure, services or facilities.

This section also provides that Section 57 of the Interpretation Act 1978, which sets out how subordinate legislation is to be numbered and cited, does not apply to the TEM Rules.

This section also provides that an authorised rule-making entity may vary the TEM Rules at any time, subject to the requirement to comply with any requirements in the regulations and to consult with the Minister, if the authorised rule-making entity is not the Minister. The Minister will be the only authorised rule-making entity identified in the ER Act.

40B – TEM Rules related provisions

This clause details the potential scope of the matters that can be included within the TEM Rules, including that the TEM Rules may:

- confer functions or powers on the Minister, NTESMO or another market operator or system controller, and the Utilities Commission;
- regulate the conduct of, confer rights and impose obligations on any person or class of persons;
- empower NTESMO to make, prepare, develop or issue codes, guidelines, tests, standards, procedures;
- apply, adopt or incorporate wholly, amended or partially, the provisions of any code, standard, rule, specification, method or document;
- require that electricity is purchased from a market operator in respect of a regulated electricity system;
- require an electricity retailer or market participant to provide credit support to a market operator and impose other forms of financial obligations;
- prescribe or adopt technical or operation requirements, standards or other matters in connection with any aspect of a power system;

- include a prohibition in relation to any matter that may be regulated under the TEM Rules, including prohibiting non-registered persons from engaging in specified activities;
- provide an exemption from, modification or variation to the TEM Rules to any person or body performing a function or exercising a power, or to whom a right has been conferred or obligation imposed under the TEM Rules, including NTESMO;
- provide for or authorise the establishment of and conferral of functions on a body, panel or committee;
- require a person or body performing a function or exercising a power, or on whom a right is conferred or obligation imposed, to indemnify another such person or body;
- provide a mechanism for the resolution of disputes in relation to any matter under the TEM Rules, or between two electricity entities in connection with any matter that relates to the operation or development of a power system; and
- provide for the setting imposition, payment and collection of fees or charges.

The Minister may direct NTESMO to provide advice to the Minister in relation to the TEM Rules.

40C – TEM Rules have the force of law

This clause provides the TEM Rules with the force of law.

40D – Regulations

This clause creates additional matters that can be provided for in the Regulations, primarily in relation to the consultation requirements for making and amending the TEM Rules and the enforcement of the TEM Rules.

The regulations may provide for the consultation that must be undertaken by the Minister (or other authorised entity) before the TEM Rules can be made or amended and any expedited consultation processes. The regulations may also detail how any person may request that the TEM Rules be varied including any processes for making the request and the information requirements that must accompany that request.

The regulations may provide for the enforcement of the TEM Rules including by providing that contravention of the TEM Rules is an offence against a regulation, can prescribe a fine not exceeding 100 penalty units for an offence in relation to a contravention of the TEM Rules, and that the offence can be of strict or absolute liability. In relation to the enforcement of the TEM Rules, the regulations may also regulate the taking of associated proceedings and provide for the orders and sanctions that may be made.

40E – Publication of TEM Rules

This requires that the Agency must publish the TEM Rules on the Agency's website.

Clause 9. Act amended

This clarifies that Part 3 of the Bill amends the ER Act. Part 2 contains the stage 2 amendments relating to the market operator reforms and NTESMO licensing.

Clause 10. Section 4 amended (Interpretation)

This clause amends the Interpretation section of the ER Act by inserting new definitions for:

- Market operator: in relation to a power system, a person licenced under Part 3 Electricity supply industry, to operate a wholesale electricity market in relation to a power system;
- operate a wholesale electricity market: to operates and administer a wholesale exchange for electricity in relation to a power system but does not include an activity prescribed by the regulations as not being to operate a wholesale exchange for electricity in relation to a power system.

Clause 11. Section 14 amended (Requirement for licence)

This clause amends section 14 by inserting “operating a wholesale electricity market” to the list of operations in the electricity supply industry for which a licence is required. The Electricity Reform (Administration) Regulations 2000 currently provide an exemption for the system controller to operate a wholesale market in the Darwin-Katherine power system, which will be amended prior to the commencement of this clause.

Clause 12. Section 14A inserted

This clause inserts new section 14A, which requires the Utilities Commission to provide NTESMO with a system control and market operator licence and sets the parameters for providing the licence. This includes that NTESMO is not required to apply for a licence, the Utilities Commission is not required to have regard to matters under Section 16, the licence is to be granted for an indefinite period, and NTESMO is the only electricity entity that is able to hold this licence (subject to any exceptions prescribed in the regulations).

The Utilities Commission may grant the licence subject to the conditions determined by the Utilities Commission in accordance with the ER Act.

Clause 13. Section 24 amended (Licence conditions - general)

This clause amends section 24 to include reference to the TEM Rules and any other codes, standards, and instruments that apply under the TEM Rules, within the licence conditions.

Clause 14. Section 25 amended (Licence conditions - licence authorising generating of electricity)

This clause amends section 25 to require compliance with directions of a market operator, alongside a system controller, that the Utilities Commission may, on granting a licence authorising the generation of electricity, make the licence subject to conditions determined by the Utilities Commission.

This clause also expands sub section 25(2) to clarify that section 25 does not limit any provision made by the regulations or the TEM Rules that relates to an electricity entity

gaining access to a regulated electricity system, in addition to the matters that may be dealt with by terms or conditions of a licence authorising the generation of electricity.

Clause 15. Section 26 amended (Licence conditions - licence authorising operation of an electricity network)

This clause amends section 26 to require compliance with directions of a market operator, alongside a system controller, that the Utilities Commission may, on granting a licence authorising the generation of electricity, make the licence subject to conditions determined by the Utilities Commission.

This clause also expands sub section 26(3) to clarify that section 26 does not limit any provision made by the regulations or the TEM Rules that relates to an electricity entity gaining access to a regulated electricity system, in addition to the matters that may be dealt with by terms or conditions of a licence authorising the generation of electricity.

Clause 16. Part 3, Division 3 heading amended

This clause amends the heading for the Part 3 Division 3 from “System controller” to “System controller and market operator” to incorporate the market operator functions.

Clause 17. Section 39 replaced

This clause inserts new section 38A that outlines the functions and powers of the market operator. A market operator has the function of operating and administering a wholesale electricity market for the power system.

The powers provided to a market operator align with the powers of the system controller, including that powers can be conferred by the Act, regulations and TEM Rules, that the market operator has the power to issue directions to electricity entities, can take action should an electricity entity refuse or fail to comply with the direction, and that costs and expenses occurred in taking action are recoverable from the electricity entity.

This clause also expands section 39, which allows the system controller to impose and recover charges relating to the operation of system control, so that the process is subject to any provision made by the TEM Rules.

This clause also amends section 39 to include that the market operator is also entitled to impose and recover charges connected with the performance of its functions and that this process is subject to any provision made by the TEM Rules.

Clause 18. Section 40 amended (Obligation to preserve confidentiality)

This clause amends section 40 to require that a market operator (in addition to a system controller) must preserve confidential information of electricity entities and any other commercially sensitive information.

This clause also adds a disclosure authorised by the TEM Rules to the list of permitted disclosures of confidential information and requires the market operator (in addition to the system controller) to give notice of proposed disclosures.

Clause 19. Section 43 amended (Price regulation by determination of Utilities Commission)

This clause amends section 43 to clarify that the price regulation by determination process that can be undertaken by the Utilities Commission under this section does not apply to charges under section 39, which relate to functions of the system controller and market operator.

Clause 20. Section 108 amended (Protection from liability)

Section 108(1) provides that a person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function in the administration or enforcement of the ER Act.

This clause also amends Section 108(3) to expand who is considered a 'person' for the purpose of section 108(1) to include a market operator, a person referred to in section 38A(5) when exercising a power or performing a function under 38A, a person acting under a delegation or authorisation given by a system controller or market operator.

Section 38A(5) provides that, if an electricity entity refuses or fails to comply with a direction, a market operator may authorise a person to take the action required by the direction or to cause the action to be taken. These are the same powers and protections provided to the system controller.

Clause 21. Part 14 inserted

This clause inserts a new part 14 Transitional matters into the ER Act. This inserts new sections 123 and 124, which provide that:

- the functions of the Power and Water Corporation as a market operator or system controller in relation to a regulated electricity system immediately before the commencement are transferred to NTESMO.
- NTESMO may, in relation to a function transferred under subsection (1), adopt any determination, decision or direction of the Power and Water Corporation in force before the commencement; and
- that a determination, decision or direction adopted under subsection (2) continues in force and effect as if it were a determination or decision of NTESMO
- any charges approved under section 39 may continue to be recovered by NTESMO until new charges are approved.

This clause also inserts new section 125 which provides that any change to a licence condition required to be made by the Utilities Commission as a result of this Act may be made anytime within 6 months after the commencement of this section.

Clause 22. Act amended

This clarifies that Part 4 of the Bill amends the *ER Act*. Part 4 contains the stage 3 amendments that relate to infrastructure planning and investment and related amendments.

Clause 23. Section 4 amended (Interpretation)

This clause amends the Interpretation section of the ER Act by:

- removing the definition for a System Control Technical Code, which is to be replaced by the TEM Rules;
- inserting the definition for approved project: see section 4A;
- inserting the definition for approved RESIP: a Regulated Electricity System and Investment Plan approved by the Minister under section 40M;
- inserting the definition for PAIR Panel: see Part 3, Division 3B, Subdivision 2;
- Inserting the definition for RESIP: see section 40G. This refers to the new section that sets out the nature and objects of a Regulated Electricity System Investment Plan.

Clause 24. Section 4A inserted

This clause inserts a definition for approved projects, which are projects approved under Division 3B of the ER Act. This definition supports the access management framework for Regulated Electricity Systems as approved project status will be required to access the network, subject to exemptions provided for in the regulations.

Clause 25. Part 3, Division 2A heading replaced

This clause updates the title of Part 3, Division 2A to remove the reference to the System Control Technical Code so that the division only relates to the Network Technical Code.

Clause 26. Sections 37B to 37E repealed

This clause repeals sections 37B to 37E, which deal with the making, distribution and publication of the System Control Technical Code. In repealing these sections, the System Control Technical Codes will cease to operate. The content of the System Control Technical Code will be incorporated into the TEM Rules.

Clause 27. Section 37H amended (Distribution of Network Technical Code)

This clause amends section 37H to include NTESMO as an entity that must receive a copy of the Network Technical Code as soon as practicable once a Network Technical Code is made or amended.

Clause 28. Section 37K amended (Sections repealed)

This clause omits Sections 37K(1)(a), (b) and (c) which reference sections 37B(1)(b) and (3), section 37C, and section 37D(d), which relate to the requirements for the Minister making and amending the System Control Technical Code.

As the System Control Technical Code will cease operation, all references to the System Control Technical Code are to be removed.

Clause 29. Section 38 amended (Functions and powers of system controller)

This clause amends section 38 that deals with the functions and powers of system controller to remove the reference to any System Control Technical Code and replace it with a reference to the TEM Rules.

This clause also includes a provision allowing the TEM Rules to confer powers on the system controller and clarifies that a system controller has power to issue directions to electricity entities in carrying out its functions under the ER Act and without limiting the powers conferred by the ER Act, regulations and the TEM Rules.

Clause 30. Section 40A amended (Rule making power)

This clause adds the RESIP related provisions to the TEM Rules rule making power, clarifying that the TEM Rules may provide for the co-ordinated planning, authorisation and implementation of projects and any requirements and processes relating to a RESIP.

Clause 31. Section 40B amended (TEM Rules – related provisions)

This clause broadens the potential scope of the matters that can be included within the TEM Rules to include that the TEM Rules may confer functions on a PAIR Panel.

Clause 32. Part 3, Division 3B inserted

This clause creates new Part 3, Division 3B and inserts new sections 40F - 40U as set out below.

Division 3B Regulations Electricity System and Investment Plans

Subdivision 1 Preliminary

40F – Reference to regulated electricity system

This clause clarifies that a reference to a regulated electricity system includes a reference to part of a regulated electricity system.

40G – Nature and objects of plan

This section sets out the nature and objects of a Regulated Electricity System Investment Plan (RESIP), setting out what the intention of the RESIP is and what the RESIP can include in order to achieve its objects.

The section sets out that a RESIP is a plan for the coordinated and efficient development of one or more regulated electricity system and the objects of a RESIP include:

- to improve the affordability, reliability, and security of electricity supply;
- to coordinate and plan future investment in electricity generation, transmission or distribution networks, storage facilities, and related electricity infrastructure and electricity services, with respect to a regulated electricity system; and
- other objects prescribed by the regulations or the TEM Rules.

This section also sets out that to achieve those objects, a RESIP may include provisions in respect to:

- planning the development of a regulated electricity system to ensure the maintenance of adequate capacity and reliability while maintaining power system security in the most economical manner,
- providing a development pathway for a regulated electricity system and setting outcomes and requirements in relation to the development or improvement of a regulated electricity system, and
- guiding and regulated the procurement of infrastructure and services required for maintenance or improvement of a regulated electricity system.

A RESIP may also include provisions relating to any other matter that is determined or approved by a PAIR Panel to be necessary or convenient for advancing the objects of a RESIP, prescribed by the regulations, specified by the TEM Rules, or determined or approved by the Minister.

Subdivision 2 Planning and Investment Review Panels

40H – Establishment of panel

This section sets out the functions of the PAIR Panel and that a PAIR Panel is to be constituted for development of each RESIP. The functions of the PAIR Panel include overseeing the development of a RESIP and approving relevant stages, identifying infrastructure and services to recommend to the Minister for approval, overseeing the procurement of approved infrastructure and services, and providing advice to the Minister. Functions can also be conferred by the rest of the Division, the regulations and the TEM Rules.

40J – Constitution of a PAIR Panel

This section identifies the persons that are to be appointed to a PAIR Panel by the Minister and that the regulations may specify matters for the PAIR Panel, including the term of office, terms and conditions for appointment, procedures, scheme for the declaration of any conflicts of interest of panel members.

The PAIR Panel will include representatives from the NT Government, NTESMO, PWC, independent industry expert(s), and any other person considered by the Minister to have the required expertise.

This clause also allows for the Minister to reconstitute, suspend or re-establish the PAIR Panel depending on the stage of the development or implementation of the RESIP to allow the PAIR Panel to have the required expertise relevant to the stage of planning and procurement. This includes provisions for a member of a PAIR Panel to be reappointed and that the same members may constitute more than one PAIR Panel.

Subdivision 3 Initiation, development and approval of plan

40K – NTESMO to initiate RESIP process

This section requires that NTESMO commence development of a RESIP and provide notice to the Minister in accordance with requirements that will be set out in the TEM Rules. On receiving this written notice, the Minister must constitute a PAIR Panel.

This will allow for the TEM Rules to identify a period of time between RESIPs and set out requirements that will trigger a new RESIP process within this identified time period.

40L – Consultation and endorsement of draft plan

This section sets out the consultation requirements and process for developing a draft RESIP as set out below.

NTESMO is to undertake industry consultation in relation to a RESIP's methodology, the inputs, assumptions and scenarios, and any other matter specified by the TEM Rules or considered relevant by NTESMO. NTESMO must also consult with the PAIR Panel in accordance with the TEM Rules and must gain approval from the PAIR panel before preparing a preliminary draft of the RESIP.

Following approval of the PAIR Panel, NTESMO must prepare a preliminary draft of the RESIP and undertake industry consultation. NTESMO must then make any appropriate changes and provide a draft to the PAIR Panel, including any information that is specified by the TEM Rules.

Once the PAIR Panel has received the draft RESIP and any other relevant information, the PAIR Panel may make any appropriate amendments before approving the RESIP and identifying the infrastructure and services that, in the opinion of the panel should be procured and the most appropriate procurement processes.

On approval of the RESIP, the PAIR Panel must submit the RESIP and a report on the infrastructure and services identified for procurement and the most appropriate procurement processes to the Minister.

40M - Approval

This section sets out that, on receiving the RESIP and associated infrastructure and services report, the Minister may determine and approve the infrastructure and services that will be procured on account of the RESIP.

The PAIR Panel must then make any changes to the RESIP to accommodate the determination made by the Minister. The RESIP must then be published on the NTESMO's website in accordance with the TEM Rules.

Subdivision 4 Implementation of plans

40N – Responsibilities under plan

This section clarifies that on the finalisation of the RESIP, the investments, procurement processes and any other requirements and functions to implement the RESIP are to be undertaken in accordance with the RESIP, the TEM Rules, and any other requirements specified by the PAIR Panel.

40P – Access to regulated electricity system subject to RESIP

This section introduces access management for regulated electricity systems. Once a RESIP has been approved by the Minister, a person may only gain access to a regulated electricity system if:

- the investment is classified as an approved project, and
- the person is an approved entity under the TEM Rules, and,
- if required by the TEM Rules, any procurement or other processes specified in the RESIP are undertaken in accordance with the RESIP and the TEM Rules.

This applies to new electricity generation, transmission or distribution network, storage facilities or with respect to any associated electricity infrastructure or services.

Exemptions for these requirements may be provided by the regulations or the TEM Rules, including by setting minimum threshold below which the access management does not apply.

Exemptions for access in the regulations will be used to identify electricity infrastructure that does not need to follow the RESIP process such as retail customers and small-scale generation (e.g. rooftop solar).

40Q – Requirements to carry out project or work or to provide services

This section requires that an entity designated in a RESIP to carry out work or provide services must comply with the requirements specified in the RESIP. The RESIP may also grant an exemption or specify a modified process that is to apply in relation to any matter that is otherwise required under the RESIP.

Power and Water Corporation is identified as a designated entity for the purposes of this section. Any other person or body can also be prescribed as a designated entity by the regulations.

This section is intended to support Power and Water Corporation, as the network provider, to progress development of any project or provision of services identified in the RESIP for the network provider to supply that may be subject to other legislative requirements such as the National Electricity Law and Rules.

Subdivision 5 Related matters

40R – Information

This section allows for a designated authority, which includes, NTESMO, a PAIR Panel, or another body specified by the TEM Rules, to by written notice require information from a relevant entity. When requesting information, the designated authority must take into account any guidance or requirement in the TEM Rules.

A relevant entity includes an entity that is engaged in the operation of a power system or contributes electricity to, or takes electricity from, a power system; a network provide; and any other entity that a designated authority considers is in a position to provide information relevant to the preparation or implementation of a RESIP. A relevant entity may request an extension of time for complying with an information request and the designated authority must grant the extension unless it considers that the request is unreasonable.

A relevant entity commits an offence if they do not comply with the information request from a designated authority and is subject to a maximum penalty of 500 units. Strict liability

applies should a person commit an offence under this section but it is a defence to prosecution if the defendant has a reasonable excuse.

This section duplicates the information request provision currently available to the Utilities Commission.

40S – Charges

This section provides for NTESMO, or another entity specified by the TEM Rules, to impose and recover charges in connection with the performance of functions under the RESIP Division, subject to any provision made under the TEM Rules. A schedule of the relevant charges must be approved by the Utilities Commission.

40T – Amendment of a RESIP

This section allows for the RESIP to be amended from time to time in accordance with the TEM Rules and also that a RESIP must be amended if so required under the TEM Rules.

40U – Exception from operation of Division

This section provides for the TEM Rules to authorise procurement for delivery of infrastructure or services without the need to prepare a RESIP or comply with any other requirement under the RESIP Division that is specified by the TEM Rules

This section is intended to facilitate the procurement of minor and uncontentious infrastructure or services by NTESMO that do not justify the completion of a full RESIP process.

Clause 33. Section 42 amended (Price regulation by determination of Utilities Commission)

This clause amends section 43 to clarify that the price regulation by determination process that can be undertaken by the Utilities Commission under this section does not apply to charges under section 40S, which relate to functions of NTESMO (or another electricity entity specified by the TEM Rules) in undertaking its role in relation to the RESIP.

Clause 34. Section 45 amended (Utilities Commission to monitor and advice on system capacity)

This clause amends section 45 to remove the Utilities Commission's obligations:

- to develop forecasts, of overall electricity load and generating capacity and report the forecasts to the Minister and electricity entities;
- advise the Minister on matters relating to the future capacity and reliability of the Territory's power system relative to forecast load; and
- submit to the Minister, and publish, an annual review of the prospective trends in the capacity and reliability of the Territory's power system relative to projects load growth.

This amendment removes the overlap that would otherwise occur between the Utilities Commission's functions and the newly established planning processes under the RESIP Division.

Clause 35. Section 108 amended (Protection from liability)

This clause amends Section 108(3) to expand who is considered a 'person' for the purpose of section 108(1) to include a member of a PAIR Panel.

Section 108(1) provides that a person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function in the administration or enforcement of the ER Act.

Clause 36. Sections 110A and 110B inserted

This clause inserts the new section 110A, which expressly authorises particular conduct that may otherwise contravene the *Competition and Consumer Act 2010* (C'th) and the National Competition Code.

Conduct authorised under Section 110A includes:

- conduct that limits connections to facilities and services relating to regulated electricity systems unless the connections form part of an approved project;
- conduct undertaken under or in accordance with an approved RESIP;
- conduct authorised by or under the TEM Rules; and
- any other conduct prescribed by the regulations.

This clause also inserts Section 110B, which provides that the Procurement Act 1995 (NT) does not apply to any procurement or other steps taken under the TEM Rules, the RESIP or section 40U of the ER Act. This will allow for the TEM Rules to set out the procurement process for NTESMO to procure infrastructure and services.

Section 40U provides for the TEM Rules to authorise any procurement for the delivery of infrastructure or services without the need to prepare a RESIP or comply with any other requirement under the RESIP Division that is specified by the TEM Rules.

Clause 37. Act amended

This clause provides for Part 3 of the Amendment Act to make a consequential amendment to the National Electricity (Northern Territory) (National Uniform Legislation) Act 2015.

Clause 38. Schedule amended

This clause inserts a new Section 16C in Schedule 1 of the National Electricity (Northern Territory) (National Uniform Legislation) Act 2015 (NEL Application Act), which applies the National Electricity Law in the Northern Territory. The new section modifies how section 157 of the National Electricity Act applies in the NT so that Section 157 does not apply in relation to conduct that is authorised, required or regulated by the ER Act, the TEM Rules under the ER Act, or a RESIP under the ER Act, or prescribed by a regulation made under section 13(3) of the NEL Application Act.

Section 157 of the National Electricity Law relates to preventing or hindering access and requires that a regulated network service provider must not engage in conduct for the purpose of preventing or hindering access of another person to a regulated network service.

This clause is required as new section 40P, that is inserted by clause 22 above, requires that a person may only gain access to a regulated electricity system if the undertaking required for access is classified as an approved project or subject to an exemption.

Clause 39. Repeal of Act

This clause clarifies that the Act (created by the passage of the Bill) is repealed on the day after it commences.