



Western Australia

Electricity Industry Amendment (Alternative Electricity Services) Act 2024

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Electricity Industry Amendment (Alternative Electricity Services) Act 2024

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Western Australia

Electricity Industry Amendment (Alternative Electricity Services) Act 2024

No. 10 of 2024

An Act to amend the *Electricity Industry Act 2004* in relation to alternative electricity services and to make consequential amendments to the *Electricity Act 1945* and the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024*.

[Assented to 22 April 2024]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Electricity Industry Amendment (Alternative Electricity Services) Act 2024*.

2. Commencement

- (1) This Act comes into operation as follows —
 - (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
 - (b) section 26(2) —
 - (i) if the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024* section 5 comes into operation on or before assent day — on the day after assent day;
 - (ii) otherwise — immediately after the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024* section 5 comes into operation;
 - (c) section 26(3) —
 - (i) if the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024* section 24 comes into operation on or before assent day — on the day after assent day;
 - (ii) otherwise — immediately after the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024* section 24 comes into operation;
 - (d) the rest of the Act — on the day after assent day.
- (2) Subsection (1)(d) is subject to section 29.

Part 2 — *Electricity Industry Act 2004* amended

3. Act amended

This Part amends the *Electricity Industry Act 2004*.

4. Section 3 amended

In section 3(1) insert in alphabetical order:

AES code of practice means the code of practice for the time being in force under section 59X;

AES customer contract means a contract entered into between a registration holder and a small use customer, or a class of small use customers, for the provision of an alternative electricity service;

alternative electricity service means an activity prescribed by the regulations as an alternative electricity service;

Coordinator means the Coordinator of Energy referred to in the *Energy Coordination Act 1994* section 4;

non-standard contract means a contract entered into between a licensee and a small use customer, or a class of small use customers, that is not a standard form contract;

registration means a registration under Part 3A;

registration holder —

- (a) means the holder of a registration; and
- (b) includes a transferee of a registration;

small use customer means a customer who consumes not more than 160 MWh of electricity per annum;

standard form contract means a contract that is approved under section 51;

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5. Section 4 amended

After section 4(2) insert:

- (3) Despite subsection (1), a licence does not authorise the provision of an alternative electricity service unless the holder of the licence is exempted under the regulations under section 59D(2)(a) from the requirement to be registered to provide the alternative electricity service.

6. Section 7 amended

- (1) At the end of section 7(1) insert:

Penalty for this subsection:

- (a) a fine of \$100 000;
(b) a daily penalty of a fine of \$5 000 for each day or part of a day during which the offence continues.

- (2) At the end of section 7(2) insert:

Penalty for this subsection:

- (a) a fine of \$100 000;
(b) a daily penalty of a fine of \$5 000 for each day or part of a day during which the offence continues.

- (3) At the end of section 7(3) insert:

Penalty for this subsection:

- (a) a fine of \$100 000;

- (b) a daily penalty of a fine of \$5 000 for each day or part of a day during which the offence continues.

- (4) At the end of section 7(4) insert:

Penalty for this subsection:

- (a) a fine of \$100 000;
- (b) a daily penalty of a fine of \$5 000 for each day or part of a day during which the offence continues.

- (5) After section 7(6) insert:

- (7) A person does not commit an offence under subsection (1), (2), (3) or (4) if the person is —
 - (a) a registration holder and the conduct to which the offence applies is authorised by that registration; or
 - (b) exempted under the regulations under section 59D(2)(c) from the requirement to be registered in relation to the conduct to which the offence applies.

- (6) At the end of section 7 delete the Penalty.

7. Section 8 amended

In section 8(4) delete “he or she” and insert:

the Governor

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8. Section 27 amended

In section 27(1) delete “he or she” and insert:

the Minister

9. Section 28 amended

In section 28(1) and (2) delete “he or she” and insert:

the Minister

10. Section 35 amended

In section 35(1) delete “he or she” and insert:

the Governor

11. Part 3 heading amended

In the heading to Part 3 delete “**certain**” and insert:

small use

12. Section 47 amended

(1) In section 47 delete the definitions of:

customer

non-standard contract

standard form contract

- (2) In section 47 in the definition of *retail licensee* delete “licence;” and insert:

licence.

Note: The heading to amended section 47 is to read:

Term used: retail licensee

13. Section 48 amended

- (1) In section 48(1):
- (a) in paragraph (a) before “customers; and” insert:

small use
 - (b) in paragraph (b) delete “customer at his or her” and insert:

small use customer at the customer’s
 - (c) in paragraph (e) before “customers.” insert:

small use
- (2) In section 48(2)(a) and (3)(a) before “customers” insert:

small use

14. Part 3A inserted

After section 59 insert:

**Part 3A — Registration framework for
alternative electricity services**

Division 1 — Preliminary

59A. Purpose of Part

The purpose of this Part is to provide a registration framework —

- (a) to regulate the registration of providers of alternative electricity services; and
- (b) to regulate the provision of alternative electricity services to customers; and
- (c) to provide for customer protections that are relevant to the provision of alternative electricity services; and
- (d) to enable access to dispute resolution for customers of providers of alternative electricity services.

59B. Terms used

In this Part —

affected person, in relation to a reviewable decision, has the meaning given in section 59U(1)(b);

class, in relation to an alternative electricity service, includes sub-class;

registration framework means —

- (a) this Part; and
- (b) the regulations; and

(c) the AES code of practice;

reviewable decision has the meaning given in section 59U(1)(a).

59C. Alternative electricity services

- (1) The regulations may prescribe —
 - (a) an activity as an alternative electricity service;
or
 - (b) a class of activities as a class of alternative electricity service.
- (2) The regulations may regulate the provision of an alternative electricity service or a class of alternative electricity service to any of the following —
 - (a) small use customers or a class of small use customers;
 - (b) customers or a class of customers other than small use customers;
 - (c) all customers.
- (3) The regulations may prescribe requirements to be complied with in the provision of an alternative electricity service or a class of alternative electricity service.
- (4) The regulations may regulate the eligibility of a person or a class of persons to be granted a registration for an alternative electricity service or a class of alternative electricity service.
- (5) Without limiting subsection (1), an activity may include any of the following —
 - (a) an activity that, in the absence of an exemption under section 8(1), would be required to be licensed under section 7;
 - (b) an activity that relates to storage works;

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- (c) an activity that relates to trading in, or monitoring or managing, the production, storage, consumption or use of electricity, whether directly or on behalf of another person;
- (d) an activity that relates to the collection, retention or use of data relating to the production, storage, consumption or use of electricity, whether directly or on behalf of another person;
- (e) any other activity that relates to the production, storage, transport, supply, consumption or use of electricity, including —
 - (i) an activity provided on a metered or unmetered basis; or
 - (ii) an activity relating to electricity acquired or aggregated from 1 or more sites for the purpose of trading, sale or participation in the wholesale electricity market; or
 - (iii) an activity relating to the measurement, analysis, manipulation or use of data for commercial purposes; or
 - (iv) an activity involving electricity generated or stored on a site or sites owned or occupied by the person providing the service or otherwise; or
 - (v) an activity relating to electricity provided through an embedded network or an unlicensed distribution system or by way of a stand-alone power system.
- (6) For the purposes of subsection (5), an activity that relates to the consumption or use of electricity may

include the consumption or use of electricity under an arrangement that is —

- (a) a membership scheme under which services are provided to the members of the scheme on payment of a membership fee and regular subscriptions; or
 - (b) a financing, leasing, licensing or hire arrangement.
- (7) The regulations may provide that a class of activity is not an alternative electricity service for the purposes of this Act.

Division 2 — Registration requirements

59D. Requirement for registration

- (1) A person must not provide an alternative electricity service to a customer unless the person is registered under this Part to provide that alternative electricity service.

Penalty for this subsection:

- (a) a fine of \$100 000;
 - (b) a daily penalty of a fine of \$5 000 for each day or part of a day during which the offence continues.
- (2) The regulations may exempt the following from the requirement under subsection (1) to be registered to provide an alternative electricity service —
- (a) the holder of a specified class of licence under Part 2;
 - (b) the holder of an existing registration for another specified alternative electricity service;
 - (c) any other person prescribed by the regulations.

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- (3) A regulation under subsection (2) may provide for circumstances in which, and conditions subject to which, an exemption is to apply.
- (4) If the holder of a licence is exempted under the regulations under subsection (2)(a) from the requirement to be registered to provide an alternative electricity service, the Authority may determine terms and conditions under section 11(1) to apply to the licence in relation to the provision of the alternative electricity service to which the exemption applies.
- (5) If the holder of a registration for an alternative electricity service is exempted under the regulations under subsection (2)(b) from the requirement to be registered to provide another alternative electricity service, the Authority may determine terms and conditions under section 59O(3) to apply to the registration in relation to the provision of the alternative electricity service to which the exemption applies.

59E. Registration holder to comply with terms and conditions of registration

A registration holder must comply with the terms and conditions applying to the registration.

Penalty:

- (a) a fine of \$100 000;
- (b) daily penalty of a fine of \$5 000 for each day or part of a day during which the offence continues.

Division 3 — General registration provisions

59F. Authority to consider public interest

- (1) The Authority must not exercise a power conferred by this Division or Division 2 unless the Authority is satisfied that it would not be contrary to the public interest to do so.
- (2) Without limiting the other matters that may be taken into account, the Authority, in determining whether the exercise of the power would not be contrary to the public interest, must take into account the following —
 - (a) environmental considerations;
 - (b) social welfare and equity considerations, including community service obligations;
 - (c) economic and regional development, including employment and investment growth;
 - (d) the interests of customers generally or of a class of customers;
 - (e) the interests of any registration holder or applicant for registration who may be affected by the exercise of the power;
 - (f) the importance of competition in electricity industry markets;
 - (g) the policy objectives of government in relation to the supply of electricity.
- (3) The Authority is not required to comply with subsection (1) and the *Economic Regulation Authority Act 2003* section 26(1)(a) in the circumstances prescribed in the regulations.

59G. Application for registration

An application for registration must be —

- (a) made in a form approved by the Authority; and
- (b) accompanied by the prescribed application fee.

59H. Renewal of registration

An application for the renewal of a registration must be —

- (a) made in a form approved by the Authority; and
- (b) accompanied by the prescribed application fee.

59I. Amendment of registration

An application for an amendment to a registration must be —

- (a) made in a form approved by the Authority; and
- (b) accompanied by the prescribed application fee.

59J. Transfer of registration

- (1) A registration cannot be transferred except with the approval of the Authority.
- (2) An approval may be given on the terms and conditions determined by the Authority.
- (3) An application for approval to transfer a registration must be —
 - (a) made in a form approved by the Authority; and
 - (b) accompanied by the prescribed application fee.

59K. Further information

An applicant for registration, renewal or amendment of registration or approval of the transfer or surrender of registration must provide any additional information

that the Authority may reasonably require for the proper consideration of the application.

59L. Public consultation on grant, renewal, amendment or transfer of registration

- (1) The Authority must ensure that public consultation is carried out in accordance with the regulations before the Authority —
 - (a) grants a registration; or
 - (b) renews a registration; or
 - (c) amends a registration; or
 - (d) approves the transfer of a registration.
- (2) The regulations may exempt an alternative electricity service or a class of alternative electricity service from the requirements of subsection (1).
- (3) Subsection (1)(c) does not apply if the amendment is of a minor or administrative nature.

59M. Decision to grant, renew, amend or approve transfer of registration

- (1) The Authority must take all reasonable steps to decide an application for the following within 90 days after the application is made —
 - (a) the grant, renewal or amendment of a registration;
 - (b) approval to transfer a registration.
- (2) The duties imposed on the Authority by subsection (1) apply only if —
 - (a) the application has been made in accordance with section 59G, 59H, 59I or 59J, as the case may be; and

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- (b) section 101B does not prohibit the grant, renewal or amendment of the registration or the approval of the transfer; and
- (c) if a requirement has been made under section 59K, the relevant information has been provided to the Authority.

59N. Registration area

- (1) A registration must be designated to apply to 1 or more areas of the State specified in the registration.
- (2) If 2 or more areas are specified in a registration those areas need not be contiguous.

59O. Registration is subject to terms and conditions

- (1) A registration is subject to a condition that the registration holder must comply with the provisions of the AES code of practice that are prescribed by the regulations to apply to the alternative electricity service or class of alternative electricity service to which the registration applies.
- (2) A registration is subject to a condition that the registration holder must notify the Authority of any change of circumstances that may materially affect the registration holder's ability to meet their obligations under this Act.
- (3) A registration is subject to any other terms and conditions that are determined by the Authority or prescribed by this Act or the regulations.
- (4) The Authority may at any time amend the terms and conditions of a registration determined by the Authority.

- (5) The regulations may prescribe terms and conditions of registration for —
 - (a) an alternative electricity service; or
 - (b) a class of alternative electricity service.

59P. Duration of registration

The Authority may grant or renew a registration for any period not exceeding 15 years that the Authority considers appropriate.

59Q. Annual fees

- (1) A registration holder must pay the prescribed annual fee to the Authority within a period determined by the Authority.
- (2) The Authority may recover any outstanding annual fee in a court of competent jurisdiction as a debt due by the registration holder to the State.

59R. Surrender of registration

- (1) A registration holder must not surrender a registration unless the Authority on the application of the registration holder has approved the surrender.
- (2) An application for approval to surrender a registration must be —
 - (a) made in a form approved by the Authority; and
 - (b) accompanied by the prescribed application fee.
- (3) The Authority must not approve a surrender of a registration unless the Authority is satisfied that it would not be contrary to the public interest to do so.

59S. Other laws not affected

The grant, renewal or amendment of a registration or the approval of the transfer or surrender of a registration does not affect the registration holder's obligations to comply with any other written law in relation to the matters covered by the registration.

59T. Notice of decision

- (1) The Authority must ensure that written notice of each of the following decisions is given to the applicant within 14 days after the decision is made —
 - (a) a decision to grant a registration;
 - (b) a decision to renew a registration;
 - (c) a decision to amend a registration;
 - (d) a decision to approve the transfer of a registration;
 - (e) a decision to approve the surrender of a registration.

- (2) The Authority must ensure that written notice of each of the following decisions and a statement of the reasons for the decision is given to the applicant within 14 days after the decision is made —
 - (a) a decision to refuse to grant a registration;
 - (b) a decision to refuse to renew a registration;
 - (c) a decision to refuse to amend a registration;
 - (d) a decision to refuse to approve the transfer of a registration;
 - (e) a decision to refuse to approve the surrender of a registration.

59U. Review of certain decisions

- (1) The Table sets out —
- (a) decisions made under this Part that are reviewable in accordance with this section (each a *reviewable decision*); and
 - (b) who is eligible to apply for a review of a reviewable decision (the *affected person*).

Table

Item	Reviewable decision	Affected person
1.	A decision of the Authority under section 59M to refuse to grant a registration	The applicant for registration
2.	A decision of the Authority under section 59M to refuse to renew a registration	The registration holder
3.	A decision of the Authority under section 59M to refuse to approve the transfer of a registration	The applicant for approval
4.	A decision of the Authority to impose a term or condition on a registration under section 59O(3)	The registration holder
5.	A decision of the Authority to amend a term or condition of a registration under section 59O(4)	The registration holder

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Item	Reviewable decision	Affected person
6.	A decision by the Authority as to the period of registration or renewal of registration under section 59P	The registration holder
7.	A decision of the Authority under section 59R to refuse to approve the surrender of a registration	The applicant for approval

- (2) An affected person who is aggrieved by a reviewable decision may apply to the State Administrative Tribunal for a review of the decision.
- (3) The application must be made within 28 days after the day on which notice of the reviewable decision is given.

59V. Register

- (1) The Authority must publish a register in accordance with this section of any of the following —
 - (a) an application for registration;
 - (b) a grant or renewal of registration;
 - (c) an amendment of registration;
 - (d) an approval of a transfer of registration;
 - (e) a refusal of an application for registration or a renewal or amendment of registration;
 - (f) a surrender of registration;
 - (g) a suspension or revocation of registration.
- (2) The register must be published on the Authority's website and made available for members of the public to inspect free of charge.

- (3) If an application for registration is refused, the Authority may include in the register any details relating to that refusal that the Authority thinks fit.
- (4) The Authority must publish each of the following decisions on the register within 14 days after the decision is made —
 - (a) a decision to grant a registration;
 - (b) a decision to refuse to grant a registration;
 - (c) a decision to renew a registration;
 - (d) a decision to refuse to renew a registration;
 - (e) a decision to amend a registration;
 - (f) a decision to refuse to amend a registration;
 - (g) a decision to approve a transfer of registration;
 - (h) a decision to refuse to approve a transfer of registration;
 - (i) a decision to approve a surrender of registration;
 - (j) a decision to refuse to approve a surrender of registration.
- (5) If a registration is granted, the register must include —
 - (a) the name and street address of the registration holder; and
 - (b) the name and contact details of the person who will handle customer requests for information and complaints; and
 - (c) the alternative electricity service for which the registration is granted; and
 - (d) the dates of the grant or renewal, or approval of the transfer, of the registration; and
 - (e) the term of the registration; and
 - (f) a description of the registration area; and

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- (g) the date of any surrender of the registration;
and
- (h) the date, if any, of the suspension or revocation
of the registration; and
- (i) any other matter prescribed in the regulations in
relation to an alternative electricity service or a
class of alternative electricity service.

59W. Fee regulations

The regulations may do all or any of the following —

- (a) prescribe different application fees and annual
fees for different alternative electricity services
or different classes of alternative electricity
service;
- (b) specify the amount of a fee or provide for a fee
to be calculated in accordance with a specified
method or formula;
- (c) specify circumstances in which the payment of
some or all of a fee may be waived.

Division 4 — AES code of practice

59X. AES code of practice

- (1) The Minister may prepare and issue a code of practice
for alternative electricity services.
- (2) The AES code of practice must set out customer
protection requirements to be complied with by
registration holders.
- (3) Without limiting subsection (2), the AES code of
practice may include requirements relating to any 1 or
more of the following —
 - (a) standards of conduct in the supply and
marketing of electricity or electricity services to

small use customers, including in relation to the following —

- (i) the information to be contained in AES customer contracts;
 - (ii) the ongoing provision of information to small use customers;
 - (iii) the obtaining of the consent of a small use customer before entering into an AES customer contract or amending an AES customer contract (other than an amendment required to comply with a written law);
 - (iv) the methods or principles to be applied by registration holders in the preparation of accounts for small use customers;
 - (v) matters relating to bills for small use customers, including matters relating to the information to be provided on bills, how payments are to be made, the frequency of bills and the arrangements to be made for small use customers experiencing payment difficulties or financial hardship;
 - (vi) the use of and access to electricity for life support equipment;
 - (vii) customer protection for persons experiencing family violence;
- (b) the regulation of pricing and price controls for the sale or supply of electricity or electricity services by registration holders to small use customers or the supply of electricity by a small use customer to a registration holder;

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- (c) the facilitation of access, at reasonable associated cost to the customer, to electricity or electricity services provided by other providers;
 - (d) the facilitation of access to electricity sources with low or zero greenhouse gas emissions;
 - (e) the metering of the supply of electricity, including —
 - (i) the provision, operation and maintenance of metering equipment; and
 - (ii) the ownership of and access to meters and metering data;
 - (f) technical requirements, including quality and reliability standards;
 - (g) requirements for asset management systems;
 - (h) internal and external complaints handling and dispute resolution processes for small use customers;
 - (i) the continuity of supply of electricity to small use customers of a registration holder that ceases to provide an alternative electricity service for which it is registered;
 - (j) the disconnection, suspension and interruption and restoration of an alternative electricity service in relation to a small use customer.
- (4) The AES code of practice may incorporate or apply with or without changes any provision of a code or standard issued and in force from time to time under section 39.

59Y. AES code of practice is subsidiary legislation

- (1) The AES code of practice is subsidiary legislation for the purposes of the *Interpretation Act 1984*.

- (2) A provision of the AES code of practice is of no effect to the extent that it is inconsistent with a provision of this Act or another written law.

59Z. Public consultation on issue, amendment or replacement of AES code of practice

- (1) The Minister must ensure that public consultation is carried out in accordance with the regulations before the Minister exercises the power to —
- (a) issue the AES code of practice; or
 - (b) amend the AES code of practice; or
 - (c) repeal and replace the AES code of practice.
- (2) Subsection (1) does not apply to an amendment to the AES code of practice if the Minister is satisfied that the amendment is of a minor nature.
- (3) Despite subsection (1), the public consultation before the issue of the initial AES code of practice may be carried out in the manner determined by the Minister.

59ZA. Notice to registration holders of amendment or replacement of AES code of practice

The Authority must notify all registration holders of the amendment or replacement of the AES code of practice.

59ZB. Review of AES code of practice

- (1) The Minister must cause a review of the AES code of practice to be carried out as soon as is practicable after —
- (a) the 5th anniversary of its commencement; and
 - (b) the expiry of each 5 yearly interval after that anniversary.

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- (2) The Minister may cause an earlier review of the AES code of practice to be carried out if the Minister considers it necessary.
- (3) The purpose of a review is to assess the suitability of the provisions of the AES code of practice to achieve the purpose of this Part.
- (4) The Minister may, by instrument, delegate any power or function under this section or section 59ZC to the Authority.

59ZC. Public consultation on review

The Minister must ensure that public consultation is carried out in accordance with the regulations when a review of the AES code of practice is carried out.

Division 5 — Functions of Authority

59ZD. Functions of Authority

- (1) The Authority is responsible for administering and enforcing the registration framework.
- (2) Without limiting subsection (1), the Authority is responsible for —
 - (a) monitoring and reporting to the Minister on request on —
 - (i) the operation of the registration framework; and
 - (ii) compliance by registration holders with the terms and conditions of registration;
 - and
 - (b) reporting to the Minister on request on the enforcement of the registration framework.

59ZE. Annual report

- (1) The Authority must prepare and provide to the Minister an annual report on the registration framework.
- (2) The annual report —
 - (a) must detail the performance and compliance of registration holders with the registration framework; and
 - (b) may identify improvements that may be made to the operation of the registration framework.
- (3) The Authority must publish each annual report on the Authority's website.

Division 6 — Performance reporting and compliance monitoring

59ZF. Requirement to provide information or report to Authority

- (1) A registration is subject to a condition that the registration holder must provide to the Authority any information or report that the Authority considers reasonable for the Authority to carry out its responsibility to administer and enforce the registration framework.
- (2) The information or report must be provided in a manner and form, and at a frequency, determined by the Authority.

59ZG. Compliance audit

- (1) The Authority may appoint a person to audit the compliance of a registration holder with the registration framework and the terms and conditions of registration.

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- (2) The audit must be carried out in accordance with the process determined by the Authority.
- (3) The registration holder, at the request of the auditor, must provide the auditor with any information reasonably required for the audit.
- (4) The Authority —
 - (a) may recover from the registration holder its reasonable costs and expenses arising from the appointment and remuneration of an auditor appointed under subsection (1); and
 - (b) may seek an order for the recovery of those costs and expenses in a court of competent jurisdiction.

59ZH. Use and disclosure of information

- (1) The Authority may use and disclose any information or report provided to the Authority under this Part to carry out its responsibility to administer and enforce the registration framework.
- (2) The Authority may disclose information relating to the registration framework to the Coordinator, on request.
- (3) The regulations may provide for the use and disclosure of confidential information.
- (4) The Authority must comply with the regulations when using or disclosing confidential information.

Division 7— Enforcement

59ZI. Failure to comply with registration

- (1) If, in the opinion of the Authority, a registration holder contravenes a term or condition of registration, the Authority may cause a notice to be served on the

registration holder requiring the registration holder to rectify the contravention within a specified period.

- (2) If, in the opinion of the Authority, a registration holder fails to comply with a notice under subsection (1), the Authority may, subject to section 59ZJ, do 1 or more of the following —
 - (a) accept a written undertaking from the registration holder under which the registration holder undertakes to rectify the contravention;
 - (b) require the registration holder to give public notice of the contravention in the manner determined by the Authority;
 - (c) order the registration holder to pay a monetary penalty fixed by the Authority but not exceeding \$100 000;
 - (d) cause the contravention to be rectified to the satisfaction of the Authority;
 - (e) revoke or suspend the registration of the registration holder.
- (3) The registration holder is liable to pay to the Authority the costs and expenses incurred in taking any action under subsection (2)(d).

59ZJ. Right of registration holder to make submissions

- (1) Subject to section 59ZP(3), the Authority must not take any action under section 59ZI(2)(b) to (e) unless the Authority has notified the registration holder —
 - (a) of the proposed action and the reasons for it; and
 - (b) that the registration holder may within the period specified in the notice show cause why the action should not be taken.

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- (2) The Authority must consider any response of the registration holder given within the period specified in the notice.
- (3) The Authority must make its decision within 30 business days after the end of the period specified in the notice.
- (4) The Authority must notify the registration holder of its decision.

59ZK. Power to enter premises to rectify contravention

Persons authorised by the Authority in writing may enter any premises and do all things that are necessary for the purposes of section 59ZI(2)(d).

59ZL. Recovery of penalty, costs and expenses

The Authority may recover the following in a court of competent jurisdiction as a debt due by the registration holder to the State —

- (a) a penalty imposed under section 59ZI(2)(c);
- (b) the costs and expenses of any action taken under section 59ZI(2)(d).

59ZM. Enforceable undertakings

- (1) This section applies if the Authority accepts an undertaking under section 59ZI(2)(a).
- (2) The registration holder may, with the consent of the Authority, withdraw or amend an undertaking.
- (3) The Authority may withdraw its acceptance of an undertaking at any time and the undertaking ceases to be in force on that withdrawal.
- (4) The Authority may publish on the Authority's website an undertaking accepted under section 59ZI(2)(a).

59ZN. Certain actions prohibited while undertaking is in force

While an undertaking is in force under section 59ZI(2)(a), the Authority must not take an action under section 59ZI(2)(b) to (e) in relation to a matter that is covered by the undertaking.

59ZO. Certain actions prohibited if undertaking is complied with

If a registration holder complies with the requirements of an undertaking under section 59ZI(2)(a), the Authority must not take an action under section 59ZI(2)(b) to (e) in relation to a matter that is covered by the undertaking.

59ZP. Failure to comply with enforceable undertakings

- (1) If the Authority considers that a registration holder who gave an undertaking under section 59ZI(2)(a) has failed to comply with any of its terms, the Authority may apply to a court of competent jurisdiction for an order under subsection (2) to enforce the undertaking.
- (2) If the court is satisfied that the registration holder has failed to comply with a term of the undertaking, the court may make any of the following orders —
 - (a) an order directing the registration holder to comply with the term of the undertaking;
 - (b) an order that the registration holder take any specified action for the purpose of complying with the term of the undertaking;
 - (c) any other order that the court considers appropriate in the circumstances.

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- (3) If the court determines that a registration holder has failed to comply with a term of an undertaking under section 59ZI(2)(a), the Authority may without further notice take 1 or more actions under section 59ZI(2)(b) to (e) in relation to a matter that is covered by the term of the undertaking.

15. Section 60 amended

In section 60 delete the definition of *Coordinator*.

16. Section 78 amended

In section 78 delete the definition of *customer*.

17. Section 90 amended

- (1) In section 90 delete the definition of *customer contract*.
- (2) In section 90 insert in alphabetical order:

customer contract means —

- (a) a standard form contract; or
 - (b) a non-standard contract; or
 - (c) an AES customer contract;
- (3) In section 90 in the definition of *customer* delete paragraph (a) and insert:
 - (a) a small use customer; and

18. Section 92 amended

In section 92(1):

(a) in paragraph (a) delete “contracts; and” and insert:

contracts or the AES code of practice; and

(b) after paragraph (b)(i) insert:

(ia) customers and registration holders; or

(c) after paragraph (c)(i) insert:

(ia) registration holders; or

19. Section 96 amended

In section 96(2)(b) delete “his or her” and insert:

the electricity ombudsman’s

20. Section 97 amended

In section 97(2) delete “licensee” and insert:

licensee, a registration holder

21. Part 7 Division 5 inserted

At the end of Part 7 insert:

**Division 5 — Membership of approved scheme by
registration holder**

**101A. Proof of membership in applications relating to
registration**

- (1) An applicant for the grant of a registration of an alternative electricity service who proposes to provide the alternative electricity service to a customer must produce with the application evidence showing that the applicant will, if the registration is granted, be a member of an approved scheme.
- (2) An applicant for the renewal of a registration of an alternative electricity service who provides the alternative electricity service to customers must produce with the application evidence showing that the applicant will, if the registration is renewed, continue to be a member of an approved scheme.
- (3) If an application is made under section 59J for approval to transfer a registration of an alternative electricity service to a person who proposes to provide the alternative electricity service to customers, the proposed transferee must produce with the application evidence showing that the proposed transferee will, if the transfer is approved, be a member of an approved scheme.

101B. Prerequisite to grant, renewal, amendment or transfer of registration

Despite Part 3A Division 3, the Authority must not grant, renew or amend a registration or approve a transfer of a registration of an alternative electricity service to a person who provides or proposes to provide the alternative electricity service to customers unless it is satisfied that the registration holder, or the proposed transferee —

- (a) is a member of an approved scheme; or
- (b) will, if the registration is granted, renewed or amended or the transfer is approved, be a member of an approved scheme.

101C. Registration condition: membership of scheme

It is a condition of registration of an alternative electricity service that the registration holder must not provide the alternative electricity service to customers unless the registration holder —

- (a) is a member of an approved scheme; and
- (b) is bound by and complies with any decision or direction of the electricity ombudsman under the scheme.

22. Schedule 2 clause 1 amended

In Schedule 2 clause 1:

- (a) in paragraph (a) after “licensees” insert:

or registration holders

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- (b) in paragraph (b) after “licensees” insert:

and registration holders
- (c) in paragraph (d) delete “in performing his or her” and insert:

or registration holders in performing the electricity ombudsman’s
- (d) in paragraph (l) delete “of substantial breaches of —” and insert:

if the electricity ombudsman becomes aware of substantial breaches of any of the following —
- (e) in paragraph (l)(i) delete “condition; or” and insert:

condition;
- (f) after paragraph (l)(i) insert:
 - (ia) any registration condition;
 - (ib) the AES code of practice;
- (g) in paragraph (l)(ii) delete “Part 6,” and insert:

Part 6.
- (h) in paragraph (l) delete “of which the ombudsman becomes aware.”

23. Various references to “customer” amended

In the provisions listed in the Table:

- (a) delete “customer” (each occurrence) and insert:

small use customer

- (b) delete “customers” (each occurrence) and insert:

small use customers

Table

s. 49(1), (2) and (3)	s. 50(1)(b) and (2)
s. 54(1)	s. 54A(1) def. of <i>relevant contract</i> par. (a) and (b)
s. 54A(2), (3) and (4)(b)	s. 57 def. of <i>premises</i>
s. 59(d)	s. 78 def. of <i>electricity marketing agent</i>
s. 78 def. of <i>marketing</i>	s. 79(2)(c) and (d)
s. 89A(a), (b), (c) and (d)	

Part 3 — Consequential amendments to *Electricity Act 1945*

24. Act amended

This Part amends the *Electricity Act 1945*.

25. Section 5 amended

(1) In section 5(1) insert in alphabetical order:

AES registration holder means a registration holder as defined in the *Electricity Industry Act 2004* section 3(1);

alternative electricity service has the meaning given in the *Electricity Industry Act 2004* section 3(1);

exempt AES provider means a person who is authorised under the *Electricity Industry Act 2004* to provide an alternative electricity service without holding a registration under that Act;

(2) In section 5(1) in the definition of *network operator*:

(a) in paragraph (c) delete “operator;” and insert:

operator; or

(b) after paragraph (c) insert:

(d) is in a class of AES registration holders prescribed by regulation; or

(e) is in a class of exempt AES providers prescribed by regulation;

Part 4 — Amendments consequential to enactment of the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024*

26. *Electricity Industry Act 2004* amended

- (1) This section amends the *Electricity Industry Act 2004*.
- (2) After section 59X(2) insert:
 - (2A) The AES code of practice must be consistent with the State electricity objective.
- (3) In section 59X(4) delete “section 39.” and insert:

section 39 or the electricity system and market rules.

27. *Electricity Industry Amendment (Distributed Energy Resources) Act 2024* amended

- (1) This section amends the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024*.
- (2) In section 4(1) in the insertion delete the definition of ***Coordinator***.
- (3) Delete section 9.

28. Act amended

- (1) This section amends this Act.
- (2) In section 4 in the insertion delete the definition of ***Coordinator***.
- (3) Delete section 15.

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29. Repeal of s. 27 or 28

Despite section 2(1)(d) —

- (a) if the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024* section 4 comes into operation on or before the day on which this section comes into operation — section 27 does not come into operation and is repealed; or
- (b) if paragraph (a) does not apply — section 28 does not come into operation and is repealed.

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