



Australian Energy Market Act 2004

No. 99, 2004

**An Act relating to the regulation of energy markets,
and for related purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

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**An Act relating to the regulation of energy markets,
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[Assented to 30 June 2004]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the *Australian Energy Market Act 2004*.

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2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	30 June 2004
2. Sections 3 to 14	A day or days to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 12 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	30 June 2005

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Definitions

- (1) In this Act, unless the contrary intention appears:

adjacent area, in respect of a State or Territory, means the area that is identified in section 5A of the *Petroleum (Submerged Lands) Act 1967* as the adjacent area in respect of that State or Territory.

Australian Energy Market Commission means the body established by section 5 of the *Australian Energy Market Commission Establishment Act 2004* of South Australia.

Australian Energy Regulator means the body established by section 44AE of the *Trade Practices Act 1974*.

National Electricity (Commonwealth) Law means the provisions applying under section 6.

National Electricity (Commonwealth) Law, Regulations and Rules means the National Electricity (Commonwealth) Law, the National Electricity (Commonwealth) Regulations and the National Electricity (Commonwealth) Rules.

National Electricity (Commonwealth) Regulations means the provisions applying under section 7.

National Electricity (Commonwealth) Rules means the provisions applying under section 8.

South Australian Electricity Legislation means:

- (a) the National Electricity Law set out in Schedule 1 to the *National Electricity (South Australia) Act 1996* of South Australia as in force from time to time; and
- (b) any regulations, as in force from time to time, made under Part 4 of that Act; and
- (c) any rules (including the National Electricity Code), as in force from time to time, made under the National Electricity Law.

uniform energy law means:

- (a) the South Australian Electricity Legislation; and
 - (b) provisions of a law of a State or Territory that:
 - (i) relate to energy; and
 - (ii) are prescribed by the regulations for the purposes of this subparagraph;being those provisions as in force from time to time.
- (2) Words and expressions used in Schedule 1 to the *National Electricity (South Australia) Act 1996* of South Australia (applying

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as part of the National Electricity (Commonwealth) Law) and in this Act have the same respective meanings in this Act as they have in that Schedule.

- (3) Subsection (2) does not apply to the extent that the context or subject matter otherwise indicates or requires.

4 Crown to be bound

This Act, the National Electricity (Commonwealth) Law, Regulations and Rules, and any other uniform energy law applied as a law of the Commonwealth, bind the Crown in each of its capacities.

5 Extra-territorial operation

It is the intention of the Parliament that the operation of this Act, the National Electricity (Commonwealth) Law, Regulations and Rules, and any other uniform energy law applied as a law of the Commonwealth, should, as far as possible, include operation in relation to the following:

- (a) things situated in or outside Australia;
- (b) acts, transactions and matters done, entered into or occurring in or outside Australia;
- (c) things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of a State, a Territory or a foreign country.

Part 2—Application of energy laws as laws of the Commonwealth

6 Application of National Electricity Law in adjacent areas etc.

The National Electricity Law set out in Schedule 1 to the *National Electricity (South Australia) Act 1996* of South Australia as in force from time to time:

- (a) applies as a law of the Commonwealth:
 - (i) in the adjacent area of each State and Territory; and
 - (ii) in any other places, to any circumstances, or to any persons, that are prescribed by regulations for the purpose of this subparagraph; and
- (b) so applying may be referred to as the *National Electricity (Commonwealth) Law*.

7 Application of National Electricity Regulations in adjacent areas etc.

Regulations, as in force from time to time, made under Part 4 of the *National Electricity (South Australia) Act 1996* of South Australia:

- (a) apply as regulations in force for the purposes of the National Electricity (Commonwealth) Law; and
- (b) so applying may be referred to as the *National Electricity (Commonwealth) Regulations*.

8 Application of National Electricity Rules in adjacent areas etc.

Rules (including the National Electricity Code), as in force from time to time, made under the National Electricity Law set out in Schedule 1 to the *National Electricity (South Australia) Act 1996* of South Australia:

- (a) apply as rules in force for the purposes of the National Electricity (Commonwealth) Law; and

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(b) so applying may be referred to as the *National Electricity (Commonwealth) Rules*.

9 Functions and powers of the Australian Energy Market Commission under the National Electricity (Commonwealth) Law, Regulations and Rules

- (1) The Australian Energy Market Commission has the functions and powers conferred on it under the National Electricity (Commonwealth) Law, Regulations and Rules.
- (2) Any delegation by the Australian Energy Market Commission is taken to extend to, and have effect for the purposes of, the National Electricity (Commonwealth) Law, Regulations and Rules.

10 Functions and powers of the Australian Energy Regulator under the National Electricity (Commonwealth) Law, Regulations and Rules

- (1) The Australian Energy Regulator has the functions and powers conferred on it under the National Electricity (Commonwealth) Law, Regulations and Rules.
- (2) Any delegation by the Australian Energy Regulator is taken to extend to, and have effect for the purposes of, the National Electricity (Commonwealth) Law, Regulations and Rules.

11 Interpretation of some expressions in the National Electricity (Commonwealth) Law, Regulations and Rules etc.

- (1) In the National Electricity (Commonwealth) Law, Regulations and Rules:

Court means the Federal Court of Australia.

Legislature of this jurisdiction means the Legislature of the Commonwealth.

magistrate means a Federal Magistrate of the Federal Magistrates Court.

the jurisdiction or *this jurisdiction* means the Commonwealth.

the National Electricity Law or *this Law* means the National Electricity (Commonwealth) Law.

- (2) The *Acts Interpretation Act 1915* of South Australia, and other Acts of South Australia, do not apply to:
- (a) the National Electricity Law set out in Schedule 1 to the *National Electricity (South Australia) Act 1996* of South Australia applied as a law of the Commonwealth; or
 - (b) any regulations made under Part 4 of that Act applied as regulations for the purposes of the National Electricity (Commonwealth) Law; or
 - (c) any rules (including the National Electricity Code) applied as rules for the purposes of the National Electricity (Commonwealth) Law.

12 Application of other uniform energy laws in adjacent areas

Any other uniform energy law:

- (a) applies as a law of the Commonwealth in the adjacent area of each State and Territory; and
- (b) so applying may be referred to by the name given to it by the regulations.

Part 3—Miscellaneous

13 Application of the *Administrative Decisions (Judicial Review) Act 1977*

- (1) This section applies in respect of any decision of the Australian Energy Regulator under:
 - (a) the National Electricity (Commonwealth) Law; or
 - (b) the National Electricity (Commonwealth) Regulations; or
 - (c) the National Electricity (Commonwealth) Rules; or
 - (d) a uniform energy law applied as a law of the Commonwealth.
- (2) For the purposes of applying the *Administrative Decisions (Judicial Review) Act 1977* to such a decision, that decision is taken to be a decision made under an enactment within the meaning of the *Administrative Decisions (Judicial Review) Act 1977*.

14 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Regulations may be made providing for the interpretation of a uniform energy law applied as a law of the Commonwealth. In particular, the regulations may provide that the following do not apply to the uniform energy law applied as a law of the Commonwealth:
 - (a) any law, or any provision of a law, of the Commonwealth, a State or Territory, being a law relating to the interpretation of laws;
 - (b) any other law, or any other provision of a law, of the Commonwealth, a State or Territory.
- (3) The regulations may modify or adapt any provision of:

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- (a) the National Electricity (Commonwealth) Law; or
 - (b) the National Electricity (Commonwealth) Regulations; or
 - (c) the National Electricity (Commonwealth) Rules; or
 - (d) a uniform energy law applied as a law of the Commonwealth;
as it applies as a provision of a law of the Commonwealth.
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*[Minister's second reading speech made in—
House of Representatives on 17 June 2004
Senate on 23 June 2004]*

(99/04)