

EXPLANATORY STATEMENT

Select Legislative Instrument 2013 No. 121

Issued by the Minister for Resources and Energy

Energy Efficiency Opportunities Act 2006

*Energy Efficiency Opportunities Amendment
(Continuation of Networks Exemption) Regulation 2013*

The *Energy Efficiency Opportunities Act 2006* (the Act) establishes the Energy Efficiency Opportunities Program (the Program). The Act requires businesses using large amounts of energy to conduct assessments of their energy use to identify energy efficiency opportunities, and to publicly report on the outcomes of those assessments. The energy-use threshold for corporations required to register for the Program is half a petajoule over a financial year.

Section 41 of the Act provides that the Governor-General may make regulations prescribing matters that are required or permitted by the Act to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

This Amendment Regulation amends the *Energy Efficiency Opportunities Regulations 2006* (the Principle Regulations) and is set out in the Attachment.

The Government exempted electricity and gas transmission and distribution businesses (network businesses) from the program when the Energy Efficiency Opportunities Regulations commenced in 2006. This exemption allowed the Government to focus its initial efforts on the largest energy using sectors and avoid conflict with energy market reforms being pursued at the time. In July 2011 the Australian Government announced it would expand the Program to network businesses following a recommendation from the Prime Minister's Task Group on Energy Efficiency.

The Government has completed extensive stakeholder consultation on the expansion of the program comprising: face-to-face meetings; release of an options paper for comment by stakeholders; review of stakeholder submissions to the options paper; stakeholder forums; and trials with network businesses in consultation with an industry working group to gather data for the Regulation Impact Statement.

The Regulation Impact Statement for the expansion of the Program to network businesses, informed by data from the trials, shows that compliance costs and the costs of implementing energy efficiency opportunities would exceed the value of energy use and energy losses that would be saved by expanding the program to cover network businesses. As a result, the Government is not proceeding with the expansion.

This Amendment Regulation would make the current networks exemption permanent by removing the exemption's 1 July 2013 expiration date. It would also remove from the definition of energy loss the energy that is lost as a result of delivering electricity and gas through transmission and distribution networks.

Details of the Amendment Regulation are set out in the Attachment.

Statement of Compatibility with Human Rights

This Regulation is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Human rights implications

This Regulation does not engage any of the applicable rights or freedoms.

Conclusion

This Regulation is compatible with human rights as they do not raise any human rights issues.

Financial Implications

There are no financial implications.

Date of Effect

Schedule 1 of this Regulation will commence the day after registration. Schedule 2 of this Regulation will commence on 1 July 2013.

Details of the *Energy Efficiency Opportunities Amendment (Continuation of Networks Exemption) Regulation 2013*

Section 1 – Name of Regulation

Section 1 provides that the title of the Regulation is the *Energy Efficiency Opportunities Amendment (Continuation of Networks Exemption) Regulation 2013*.

Section 2 – Commencement

Section 2 provides for Sections 1 to 4 commence the day after registration, Schedule 1 to the Regulation to commence the day after this Regulation is registered and Schedule 2 to the Regulation to commence on 1 July 2013.

Section 3 – Authority

Section 3 provides that this Regulation is made under the *Energy Efficiency Opportunities Act 2006*.

Section 4 – Schedules

Each instrument that is specified in a Schedule to this instrument is repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Item [1] – Repeal Subregulation 2.1(3)

Item [1] would repeal the expiry date of the exemption of corporations whose main business is any of transmission of natural gas, transmission of electricity, distribution of natural gas or distribution of electricity.

Schedule 2 – Amendments

Item [1] – Repeal Subregulation 1.3(1)

Item [1] would repeal the definition of *network losses*.

Item [2] – Repeal Subregulation 1.3(4)

Item [2] would repeal details of the definition of *network losses*.

Item [3] – Paragraph 1.5(2)(a)

Item [3] would omit the part of this paragraph requiring energy used by an entity to include network losses from the transmission and distribution of electricity and gas.