

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Treasurer**

*Competition and Consumer Act 2010*

*Competition and Consumer Amendment (State/Territory Coal Market Price Emergency Law) Regulations 2023*

Section 172 of the *Competition and Consumer Act 2010* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 44AI(1) of the Act provides that a State/Territory energy law may confer functions or powers, or impose duties, on the Australian Energy Regulator (AER) for the purposes of that law. Subsection 44AI(3) of the Act provides for the AER to perform such a duty or function, or exercise such a power, in accordance with an agreement between the Commonwealth and the relevant State or Territory.

The *Competition and Consumer Amendment (State/Territory Coal Market Price Emergency Law) Regulations 2023* (the Regulations) give effect to the conferral of functions on the AER under the *Energy and Utilities Administration Act 1987* (NSW), as agreed between the Commonwealth Government and the New South Wales (NSW) Government. The Regulations prescribe Schedule 3 to the *Energy and Utilities Administration Act 1987* (NSW) and any directions and regulations made under that Schedule as a State/Territory energy law. This allows the AER to be given the functions of the regulator under that Schedule.

Consultation was undertaken with the AER and the NSW Government. Public consultation was not undertaken given the machinery nature of the instrument.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Part 1 of Schedule 1 to the Regulations commences on the day after registration. Part 2 of Schedule 1 to the Regulations, which repeals the table item inserted by Part 1 of Schedule 1, commences on 1 July 2024. The Regulations will repeal on 2 July 2024.

A statement of Compatibility with Human Rights is at [Attachment A](#).

The Office of Impact Analysis has been consulted (OBPR ID# 22-03859) and an Impact Analysis is not required.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Competition and Consumer Amendment (State/Territory Coal Market Price Emergency Law) Regulations 2023**

This Legislative Instrument 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*.

#### **Overview of the Legislative Instrument**

The *Competition and Consumer Amendment (State/Territory Coal Market Price Emergency Law) Regulations 2023* give effect to the conferral of functions on the Australian Energy Regulator (AER) under the *Energy and Utilities Administration Act 1987* (NSW), as agreed between the Commonwealth Government and the New South Wales (NSW) Government. The Regulations provide for the AER to administer Schedule 3 of the *Energy and Utilities Administration Act 1987* of NSW and any related directions and regulations made under that Act.

#### **Human rights implications**

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

#### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.